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Two respondents expressed concern that the proposed rule removes any targeting of funds or credit/points for economic distress, distressed communities, and low-income people. The proposed rule maintained the selection priorities related to population and economic conditions, and also added priority for smaller communities.

The provision for discretionary points also specifically includes justification and documentation for "mitigation of economic distress-through saving jobs or emergency situations." These provisions adequately address the concerns raised and give weight to economic distress situations.

Two respondents recommended allowing grant funds to be used for: "initial loan management purposes," "revolving loan fund management," and "administrative and support costs of loan programs." Loan administration costs incurred in revolving loan programs may be recouped through loan closing fees charged to the ultimate recipient. In technical assistance projects, administrative costs are allowed. This provision is intended to encourage the grantee organization to seek other non-government funds, establish ongoing or revolving programs, and provide maximum in-kind services. The ultimate objective is to provide the maximum grant dollars to the end recipient, the rural communities.

One respondent believed that lifting the dollar limitation to a single grantee was related to making broadcast systems an eligible grant purpose. These amendments to the rule were necessary to address two separate situations. One statute added section 310B(j) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) by establishing a program of grants for broadcasting systems. One act directed the removal of the dollar limitation on RBE projects funded under section 310B(c). These two legislative requirements are not interrelated.

One respondent recommended eliminating grants to businesses. Public bodies and private nonprofit organizations are eligible for grants. Eligible grantees may use grant funds to facilitate the development of small and emerging private businesses, but grants are not made to a business. This provision further limits grants to projects only when there is a reasonable prospect that a small and emerging private business will be developed.

One respondent states that not all areas are covered by community or economic development plans and that the Intergovernmental Review Process adequately addresses the requirement for consistency with a local plan, and asks that this additional requirement be eliminated. The granting of priority points for evidence that the proposed project is consistent with local government plans is broad enough to allow for whatever plan or local government approval may be appropriate to the project area. The provision is desirable to ensure that the

proposal is acceptable and meets a priority need of the local rural community.

One respondent interpreted the definition of "small and emerging private business enterprise" to exclude social services, such as a nonprofit day care facility. The definition does not exclude a day care facility as an eligible business enterprise.

After publication of the proposed rule, and as a result of a respondent believing lifting the dollar limitation to a grantee was related to making broadcast systems an eligible purpose, changes are made to the regulation to further clarify that the regulation implements and contains requirements for two separate programs. One program implements section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) which provides for grants to finance and facilitate the development of small and emerging private business enterprises. One program implements section 310B(j) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(j)) by providing for a program of grants to statewide, private, nonprofit, public, television systems whose coverage is predominantly rural to demonstrate the effectiveness of providing information on agriculture and other issues of importance to farmers and other rural residents.

Therefore, the final rule is changed from the prior rule published in the *Federal Register* on December 24, 1991, as follows: (1) The name of the program is changed from "Rural Business Enterprise Grants" to "Rural Business Enterprise Grants and Television Demonstration Grants"; (2) The definitions of Rural Business Enterprise Grants and Television Demonstration Grants are changed to reflect the appropriate sections of the Consolidated Farm and Rural Development Act which authorize these programs; (3) The definition of project and television demonstration program are changed to clarify the requirements for television demonstration grants; (4) The eligibility criteria has been clarified to distinguish eligible applicants for each program; (5) The application rating factors will be used for rural business enterprise grants and the factor for providing points for grants for television demonstration programs set forth in the proposed rule has been removed. Because the regulation implements two separate programs, applicants for rural business enterprise grants will not compete for priority points against applicants for television demonstration grants. Due to the Agency's experience in providing grants to television systems meeting the

definition set forth in the statute, there appear to be only a small number of applicants eligible for the television demonstration program grants, therefore, application selection priorities will not be established for these grants; (6) A section is added to grant purposes to clarify the use of grant funds for television demonstration projects; (7) Changes are made throughout to change rural business enterprise grants to also reflect television demonstration grants where appropriate; and (8) a change is made to add the requirement of compliance with title III of American with Disabilities Act, Public Law 101-336, which prohibits discrimination on the basis of disability by private entities in places of public accommodation.

Program Affected

This program, Rural Business Enterprise Grants and Television Demonstration Grants, is listed in the Catalog of Federal Domestic Assistance as Industrial Development Grants under Number 10.424. The FmHA program and projects which are affected by this instruction and the instruction itself are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940-J.

List of Subjects

7 CFR Part 1940

Agriculture, Environmental protection, Flood plains, Grant programs—Housing and community development, Loan programs—Agriculture, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1942

Business and industry, Community facilities, Fire prevention, Grant programs—Business, Grant programs—Housing and community development, Indians, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1951

Accounting, Agriculture, Claims, Community facilities, Government employees, Grant programs—Housing, Reporting and recordkeeping requirements, Rural areas, Wages.

7 CFR Part 2003

Organization and functions (government agencies).

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1940—GENERAL

1. The authority citation for part 1940 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; and 7 CFR 2.70.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

2. The heading of § 1940.589 is revised to read: "Rural Business Enterprise Grants."

3. Section 1940.590 is amended by adding paragraph (h) to read as follows:

§ 1940.590 Community and Business programs appropriations not allocated by State.

(h) Television Demonstration Grants. Since this is a demonstration program, all funds are being retained in the National Office. Funds may be requested by sending in attachment 1, Section C of FmHA Instruction 1942-G.

PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 continues to read as follows:

Authority: 7 U.S.C. 1989; 16 U.S.C. 1005; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart G—Rural Business Enterprise Grants and Television Demonstration Grants

2. The heading of subpart G of part 1942 is revised to read: "Rural Business Enterprise Grants and Television Demonstration Grants."

3. Section 1942.304 is revised to read as follows:

§ 1942.304 Definitions.

Project. For rural business enterprise grants, the result of the use of program funds, i.e., a facility whether constructed by the applicant or a third party from a loan made with grant funds, technical assistance, startup operating costs, or working capital. A revolving fund established in whole or in part with grant funds will also be considered a project for the purpose of Intergovernmental and Environmental Review under § 1942.310 (b) and (c), of this subpart as well as the specific uses of the revolving funds. For television demonstration grants, television programming developed on issues of importance to farmers and rural residents.

Regional Commission grants. Grants made from funds made available to FmHA by the Appalachian Regional Commission (ARC) or other Federal Regional Commissions designated under

Title V of the Public Works and Economic Development Act of 1965.

Rural and Rural Area. Includes all territory of a State, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, or the Commonwealth of the Mariana Islands that is not within the outer boundary of any city having a population of 50,000 or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than 100 persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

Rural Business Enterprise (RBE) grants. Grants made to finance and facilitate development of small and emerging private business enterprises in rural areas. Grants are made from FmHA funds under authority of the Consolidated Farm and Rural Development Act, as amended, Sec. 310B(c) (7 U.S.C. 1932).

Small and emerging private business enterprise. Generally any private business which will employ 50 or fewer new employees; has less than \$1 million in projected gross revenues; has, or will utilize, technological innovations and commercialization of new products that can be produced/manufactured in rural areas; and new processes that can be used in such production.

Technical Assistance. A function performed for the benefit of a private business enterprise and which is a problem solving activity, such as market research, product and/or service improvement, feasibility study, etc.

Television demonstration program. Grants made for television programming developed to demonstrate the effectiveness of providing information on agriculture and other issues of importance to farmers and other rural residents. Grants are made from FmHA funds under authority of the Consolidated Farm and Rural Development Act, as amended, Sec. 310B(j) (7 U.S.C. 1932).

Urbanized Area. An area immediately adjacent to a city having a population of 50,000 or more, which, for general social and economic purposes, constitutes a single community and has a boundary contiguous with that of the city. Such community may be incorporated or unincorporated and extend from the contiguous boundary(ies) to recognizable open country, less densely settled areas, or natural boundaries, such as forests or water. Minor open spaces, such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. Outer boundaries of an incorporated community extend at

least to its legal boundaries. Cities which may have a contiguous border with another city but are located across a river from such city, are recognized as a separate community, and are not otherwise considered a part of an urbanized or urbanizing area, as defined in this section, are not in a nonrural area.

Urbanizing Area. A community which is not now, or within the foreseeable future not likely to be, clearly separate from, and independent of, a city of 50,000 or more population and its immediately adjacent urbanized areas. A community is considered "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. A community is considered "independent of" when its social and economic structure (e.g., government, education, health, and recreational facilities; and business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized area.

4. Section 1942.305(a)(1) is amended in the first sentence by changing the word "ID" to read "RBE".

5. Section 1942.305 is amended by adding a new paragraph (a)(3) and revising paragraphs (b) and (b)(3)(i), (iii), (iv), and (v) to read as follows:

§ 1942.305 Eligibility and priority.

(a) * * *

(3) Television demonstration grants may be made to statewide, private, nonprofit, and public television systems whose coverage is predominantly rural. An eligible applicant must be organized as a private nonprofit public television system, licensed by the Federal Communications Commission, and operated statewide and within a coverage area that is predominantly rural.

(b) **Project selection process.** The following paragraphs indicate items and conditions which must be considered in selecting RBE applications for further development. When ranking eligible RBE applications for consideration for limited funds, FmHA officials must consider the priority items met by each RBE application and the degree to which those priorities are met, and apply good judgment. Due to the small number of applicants eligible for television demonstration grants, such applicants will not compete for priority points against RBE applicants.

(3) * * *

(i) *Population.* Proposed project(s) will primarily be located in a community of (1) between 15,000 and 25,000 population—5 points, (2) between 5,000 and 15,000 population—10 points, (3) under 5,000 population—15 points.

(iii) *Experience.* Applicant has evidence of at least 5 years of successful experience in the type of activity proposed in the application for funds under this subpart. Evidence of successful experience may be (1) a description of experience supplied and certified by the applicant, or (2) a letter of support from appropriate local elected officials explaining the applicant's experience. Experience—10 points

(iv) *Other.*

(A) Applicant has evidence that small business development will occur by startup or expansion as a result of the activities to be carried out under the grant. Written evidence of commitment by small business must be provided to FmHA—25 points.

(B) Applicant has evidence of substantial commitment of funds from nonfederal sources for proposed project. An authorized representative of the source organization of the nonfederal funds must provide evidence that the funds are available and will be used for the proposed project. More than 50 percent of the project costs from nonfederal sources—15 points; more than 25 percent, but less than 50 percent of project costs from nonfederal sources—10 points; between 5 percent and 25 percent of project costs from nonfederal sources—5 points.

(C) For a grant to establish a revolving fund, the applicant provides evidence to FmHA through loan applications or letters from businesses that the loans are needed by small emerging businesses in the proposed project area—25 points.

(D) The anticipated development, expansion, or furtherance of business enterprises as a result of the proposed project will create and/or save jobs associated with the affected businesses. The number of jobs must be evidenced by a written commitment from the business to be assisted. One job per each \$10,000 or less in grant funds expended—10 points. One job per each \$25,000 to \$10,000 in grant funds expended—5 points.

(E) The proposed grant project is consistent with, and does not duplicate, economic development activities for the project area under an existing community or economic development plan covering the project area. If no

local plan is in existence for the project area, an areawide plan may be used. The plan used must be adopted by the appropriate governmental officials/entities as the area's community or economic development plan.

Appropriate plan references and copies of appropriate sections of the plan, as well as evidence of plan adoption by appropriate governmental officials, should be provided to FmHA. Project is reflected in a plan—5 points.

(F) Grant projects utilizing funds available under this subpart of less than \$100,000—25 points, \$100,000 to \$200,000—15 points, more than \$200,000 but not more than \$500,000—10 points.

(v) *Discretionary.* In certain cases, when a grant is an initial grant for funding under this subpart and is not more than \$500,000, FmHA may assign up to 50 points in addition to those that may be assigned in paragraphs (b)(3)(i) through (iv) of this section. Use of these points must include a written justification, such as geographic distribution of funds, criteria which will result in substantial employment improvement, mitigation of economic distress of a community through the creation or saving of jobs, or emergency situations. For grants of less than \$100,000—50 points; \$100,000 to \$200,000—30 points; more than \$200,000, but not more than \$500,000—20 points.

6. Section 1942.306(a) is amended in the introductory text by revising the phrase "and develop" to read "and/or develop".

7. Section 1942.306 is amended by revising paragraphs (a)(3), (a)(4), (a)(7), and (b), and by adding (a)(8) and (a)(9) to read as follows:

§ 1942.306 Purposes of grants.

(a) * * *

(3) Loans for startup operating cost and working capital.

(4) Technical assistance for private business enterprises.

* * *

(7) Providing financial assistance to third parties through a loan.

(8) Training, when necessary, in connection with technical assistance.

(9) Production of television programs to provide information on issues of importance to farmers and rural residents.

(b) Grants, except grants for television demonstration programs, may be made only when there is a reasonable prospect that they will result in development of small and emerging private business enterprises.

* * *

8. Section 1942.307 is amended by removing paragraph (b), redesignating

paragraph (c) as (b), and adding new paragraph (a)(4) and (a)(5) to read as follows:

§ 1942.307 Limitations on use of grant funds.

(a) * * *

(4) For programs operated by cable television systems

(5) To fund a part of a project which is dependent on other funding unless there is a firm commitment of the other funding to ensure completion of the project.

* * *

9. Section 1942.310 is amended by revising paragraph (a), by adding two sentences to the end of paragraph (b)(4), and by revising the introductory text of paragraph (c)(1) to read as follows:

§ 1942.310 Other considerations.

(a) Civil rights compliance requirements. All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964, which prohibits discrimination on the bases of race, color, and national origin as outlined in subpart E of part 1901 of this chapter. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap, the requirements of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age and title III of the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination on the basis of disability by private entities in places of public accommodations. When FmHA is administering a Federal Regional Commission grant and no FmHA RBE/television demonstration grant funds are involved, the Federal Regional Commission may make its own determination of compliance with the above Acts, unless FmHA is designated compliance review responsibilities. FmHA shall in all cases be made aware of any findings of discrimination or noncompliance with the requirements of the above Acts.

(b) * * *

(4) * * * If the preapplication reflects only one specific project which is specifically identified as the third party recipient for financial assistance, FmHA may perform the appropriate environmental assessment in accordance with the requirements of subpart G of part 1940 of this chapter, and forego initiating a Class II assessment with no public notification. However, the applicant must be advised that if the recipient or project changes

after the grant is approved, the project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in subpart G of part 1940 of this chapter.

(c) * * *

(1) If a proposed grant is for more than \$1 million and will increase direct employment by more than 50 employees, the applicant will be requested to provide a written indication to FmHA which will enable FmHA to determine that the proposal will not result in a project which is calculated to, or likely to, result in:

§ 1942.310 [Amended]

10. Section 1942.310(c)(4) is amended in the first sentence by removing the word "ID".

11. Section 1942.311 is amended by revising the last sentence in paragraph (a)(1) to read as follows:

§ 1942.311 Application processing.

(a) * * *

(1) * * * The applicant shall use SF 424.1, "Application for Federal Assistance (For Non-Construction)," or SF 424.2, "Application for Federal Assistance (For Construction)," as applicable, when requesting financial assistance under this program.

§ 1942.313 [Amended]

12. Section 1942.313(a)(2) is amended by revising the word "ID" to "RBE"; and paragraph (a)(4) is amended by removing the word "grants".

13. Section 1942.314 is amended by revising the section heading and by adding a new paragraph (g) to read as follows:

§ 1942.314 Grants to provide financial assistance to third parties, television demonstration projects, and technical assistance programs.

(g) For technical assistance and television demonstration program projects, the scope of work should include a budget based on the budget contained in the application, modified or revised as appropriate, which includes salaries, fringe benefits, consultant costs, indirect costs, and other appropriate direct costs for the project.

14. Section 1942.314(e) is amended by revising the word "ID" to "RBE/television demonstration".

§ 1942.315 [Amended]

15. Section 1942.315(b) is amended by revising in the seventh sentence the

words "FmHA 442-46" to read "FmHA 1942-46" and by removing the words "interim financing" from the last sentence.

§ 1942.349 [Amended]

16. Section 1942.349 is amended by revising the word "ID" to read "RBE/television demonstration".

17. Section 1942.350 is revised to read as follows:

§ 1942.350 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0132. Public reporting burden for this collection of information is estimated to vary from one-half to 40 hours per response, with an average of 1.8 hours per response including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

PART 1951—SERVICING AND COLLECTIONS

18. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480, 5 U.S.C. 301; 7 CFR 2.23; and 7 CFR 2.70.

Subpart E—Servicing of Community and Business Programs Loans and Grants

§ 1951.201 [Amended]

19. Section 1951.201 is amended by revising in the first sentence the words "Industrial Development" to read "Rural Business Enterprise/Television Demonstration".

PART 2003—ORGANIZATION

20. The authority citation for part 2003 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Public Law 100-82, 7 CFR 2.23; and 7 CFR 2.70.

Subpart A—Functional Organization of the Farmers Home Administration

21. Exhibit A to subpart A is amended in paragraph 2, under the heading "07 02 03 Assistant Administrator—Community

and Business Programs" by revising the words "industrial development" to read "rural business enterprise/television demonstration".

Dated: July 13, 1992.

Mary Ann Baron,
Acting Administrator, Rural Development Administration.

Dated: July 13, 1992.

La Verne Ausman,
Administrator, Farmers Home Administration.

[FR Doc. 92-17597 Filed 7-24-92; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

[Regulations G, T, U and X]

Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is comprised of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) represents foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to or deletions from the previous OTC List. There are no additions to or deletions from the previous Foreign List. Both Lists were last published on April 27, 1992 and effective on May 11, 1992.

EFFECTIVE DATE: August 10, 1992.

FOR FURTHER INFORMATION CONTACT: Peggy Wolfrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing-impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544.

SUPPLEMENTARY INFORMATION: Listed below are additions to or deletions from the OTC List. This supersedes the last OTC List which was effective May 11,

1992. Additions and deletions to the OTC List were last published on April 27, 1992 (57 FR 15220). A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks that meet the criteria in Regulations G, T and U (12 CFR parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated under a Securities and Exchange Commission (SEC) rule as qualified for trading in the national market system (NMS security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the Board and the SEC and will be incorporated into the Board's next quarterly publication of the OTC List.

There are no new additions, deletions or changes to the Board's Foreign List, which was last published April 27, 1992 (57 FR 15220) and effective May 11, 1992. This notice serves as republication of that List with a new effective date of August 10, 1992. The Foreign List includes those securities that meet the criteria in Regulation T and are eligible for margin treatment at broker-dealers on the same basis as domestic margin securities. A copy of the complete Foreign List is available from the Federal Reserve Banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6 (a) and (b), 220.17 (a), (b), (c) and (d), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as

possible. The Board has responded to a request by the public and allowed a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6 (Regulation G), 12 CFR 220.2(u) and 220.17 (Regulation T), and 12 CFR 221.2(j) and 221.7 (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List.

Deletions From the List of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

American Nursey Products, Inc.
\$10 par common
Branford Savings Bank
\$1.00 par common
College Bound, Inc.
\$.001 par common
Cornucopia Resources Ltd.
No par common
Covington Development Group, Inc.
\$.01 par common
D.O.C. Optics Corporation
\$.10 par common
DVI Health Services Corporation
Warrants (expire 02-07-96)
Equitable of Iowa Companies
Class A, no par common
Fairfield First Bank & Trust
(Connecticut)
\$5.00 par common
Giant Bay Resources, Ltd.

No par common
Golden Cycle God Corporation
No par common
Grubb & Ellis Realty Income Trust
No par common
Hall Financial Group, Inc.
\$.05 par common
Imnet, Inc.
\$.05 par common
Inrad, Inc.
\$.01 par common
MPSI Systems Inc.
\$.05 par common
Paul Harris Stores, Inc.
No par common
Photon Technology International
No par common
Polifly Financial Corporation
\$.10 par common
Programming and Systems, Inc.
\$.04 par common
Simetco, Inc.
\$1.00 par common
Super Rite Corporation
\$.01 par exchangeable preferred
Tele-Communications, Inc.
7% convertible subordinated debentures
Telemundo Group, Inc.
\$.01 par common
USA Bancorp Inc.
\$1.00 par common
Ventura Entertainment Group, Ltd.
\$.001 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition
Air Methods Corporation
\$.01 par common
Ameribanc, Inc.
\$5.00 par common
American Television and Communications Corp.
Class A, \$.01 par common
Biomedical Dynamics Corporation
No par common
DVI Health Services Corporation
\$.005 par common
ECC Group PLC
American Depositary Receipts
F&M Financial Services Corporation
\$.25 par common
FB & T Corporation
\$1.00 par common
Health Management Associates, Inc.
Class A, \$.01 par common
Hilb, Rogal and Hamilton Company
No par common
Hospital Staffing Services, Inc.
\$.001 par common
International Mobile Machines Corporation
\$.01 par common
Interstate Bakeries Corporation
\$.01 par common
Manufacturers National Corporation
\$10.00 par common

| | | |
|--|--|---|
| Medical Care International \$.01 par common | Bed Bath & Beyond, Inc. \$.01 par common | Excel Technology, Inc. \$.001 par common |
| Mediplex Group Inc. \$.10 par common | Ben Franklin Retail Stores, Inc. \$.01 par common | Express Scripts, Inc. Class A, \$.01 par common |
| Merchants National Corporation No par common | Bio-Technology General Corporation Warrants (expire 12-19-95) Warrants (expire 05-07-96) | Financial Federal Corporation (New York) \$.50 par common |
| Mips Computer Systems, Inc. No par common | Bio-Vascular, Inc. \$.01 par common | Finish Line, Inc., The Class A, \$.01 par common |
| Mor Flo Industries, Inc. No par common, \$.50 stated value | Biocircuits Corporation \$.001 par common | First Cash, Inc. \$.01 par common |
| Nymagic, Inc. \$.100 par common | Bioject Medical Systems, Ltd. No par common | First Colonial Bancshares, Inc. (Illinois) Depository shares |
| Omni Capital Group, Inc. \$.100 par common | Bok Financial Corporation \$.00006 par common | First Savings Bank, SLA \$.01 par common |
| Oriental Federal Savings Bank (Puerto Rico) \$.100 par common | BPI Environmental, Inc. \$.01 par common | Firstfed Bancshares, Inc. \$.01 par common |
| OW Office Warehouse, Inc. \$.01 par common | British Bio-Technology Group PLC American Depository Receipts | FM Properties, Inc. \$.01 par common |
| Pic 'N' Save Corporation \$.04-1/8 par common | Broadway & Seymour, Inc. \$.01 par common | Galey & Lord, Inc. \$.01 par common |
| Prime Bancshares, Inc. \$.01 par common | Buckle, Inc., The \$.05 par common | General Cable Corporation \$.100 par common |
| Royal Appliance Manufacturing Corp. No par common | Canandaigua Wine Company, Inc. Class A, \$.01 par common Class B, \$.01 par common | Great American Recreation, Inc. \$.100 par convertible preferred |
| Salem Carpet Mills, Inc. \$.100 par common | Candela Laser Corporation Warrants (expire 11-08-2000) | GTE California, Inc. 5% cumulative preferred |
| Security Bancorp Inc. \$.01 par common | Cantab Pharmaceuticals PLC American Depository Receipts | GTI Corporation \$.04 par common |
| Selectron Corporation No par common | Capital Bancorporation, Inc. (Missouri) Depository Shares | Hall-Mark Electronics Corporation \$.01 par common |
| Stuart Hall Company, Inc. \$.25 par common | Cardiovascular Imaging Systems, Inc. No par common | Hallwood Consolidated Resources Corporation \$.01 par common |
| Sulcus Computer Corporation No par common | Ccair, Inc. \$.01 par common | Hampshire Group, Limited \$.10 par common |
| Summcorp No par common | CF Bancorp, Inc. \$.01 par common | Healthcare Imaging Services, Inc. \$.01 par common, warrants (expire 11-19-96) |
| Westmoreland Coal Company \$.250 par common | Cholestech Corporation No par common | Hemacare Corporation No par common |
| Additions to the OTC List | Command Security Corporation \$.0001 par common | Hinsdale Financial Corporation \$.01 par common |
| Advanta Corporation Class B, non-voting, \$.01 par common | Cooperative Bank for Savings, Inc. \$.100 par common | Holson Burnes Group, Inc., The \$.01 par common |
| All American Semiconductor, Inc. Class A, warrants (expire 06-18-97) Class B, warrants (expire 06-18-97) | Cott Corporation No par common | Homecare Management, Inc. \$.03 par common |
| All for a Dollar, Inc. \$.01 par common | Credit Acceptance Corporation No par common | Horton, D.R., Inc. \$.01 par common |
| Allied Bank Capital, Inc. (Pennsylvania) \$.100 par common | Crosscomm Corporation \$.01 par common | Imperial Credit Industries, Inc. No par common |
| Allied Capital Commercial Corporation \$.0001 par common | Data Research Associates, Inc. \$.01 par common | Intermedia Communications of Florida, Inc. \$.01 par common |
| Allied Waste Industries, Inc. \$.01 par common | Datawatch Corporation \$.01 par common, warrants (expire 05-28-96) | Jennifer Convertibles, Inc. \$.02 par common |
| American Funeral Services Corporation \$.05 par common | Dateq Information Network, Inc. \$.01 par common | Kronos Incorporated \$.01 par common |
| Argus Pharmaceuticals, Inc. \$.001 par common | Destron/IDI, Inc. No par common | Krystal Company, The No par common |
| Arkansas Best Corporation \$.01 par common | Diceon Electronics, Inc. 5 1/2% convertible subordinated debentures due 2012 | Lasersight, Incorporated \$.01 par common |
| Arrow International, Inc. No par common | Electronic Information Systems, Inc. \$.01 par common | Learning Company, The No par common |
| Atlantic Gulf Communities Corporation \$.10 par common | Enzymatics, Inc. \$.01 par common | LGF Bancorp, Inc. (Illinois) \$.01 par common |
| Automotive Industries Holding, Inc. Class A, \$.01 par common | Equitrac Corporation \$.01 par common | Liberty National Bank (California) \$3.33 1/3 par common |
| AW Computer Systems, Inc. \$.01 par common | | |
| Basin Exploration, Inc. | | |

Lida Inc.
Class A, \$.01 par common
Life USA Holding, Inc.
\$.01 par common
Medi-Mail, Inc.
\$.001 par common
Medquist, Inc.
No par common
Methanex Corporation
No par common
Metricom, Inc.
\$.001 par common
Michigan Financial Corporation
\$1.00 par common
Micro Focus Group Public Limited Company
American Depository Receipts
Microtouch Systems, Inc.
\$.01 par common
Mid-Am, Inc.
No par convertible preferred
Morningstar Group Inc., The
\$.02 par common
National Community Banks, Inc.
Series B, \$1.9375 par cumulative convertible preferred
National Vision Associates, Ltd.
\$.01 par common
Natural Wonders, Inc.
\$.01 par common
Neozyme II Corporation
Units (expire 12-31-96)
Netframe Systems Incorporated
\$.001 par common
Network Computing Devices, Inc.
No par common
Omega Health Systems, Inc.
\$.06 par common
On The Border Cafes, Inc.
\$.02 par common
Onbancorp, Inc. (New York)
6.75% Series B, \$1.00 par cumulative convertible preferred
Optical Data Systems, Inc.
No par common
Orthofix International N.V.
\$.10 par common
OSB Financial Corporation
\$.01 par common
OTR Express, Inc.
\$.01 par common
PacifiCare Health Systems, Inc.
Class B, \$.01 par common
Perceptive Biosystems, Inc.
\$.01 par common
Phoenix RE Corporation
Depository shares
Phoenix Resource Companies, Inc., The
\$.001 par common
Premiere Radio Networks, Inc.
No par common
Princeton National Bancorp, Inc. (Illinois)
\$.50 par common
Pure Tech International, Inc.
\$.05 par common
Puroflow Incorporated
\$.06% par common
Quantum Restaurant Group, Inc.

\$.01 par common
Quidel Corporation
Warrants (expire 03-20-2000)
Regal Communications Corporation
\$.001 par common
Rehabclinics, Inc.
\$.01 par common
Rival Company, The
\$.01 par common
Salem Sportswear Corporation
\$.01 par common
Sanborn, Inc.
Series A, convertible preferred stock
Class A, redeemable warrants (expire 07-01-97)
Sapiens International Corporation N.V.
DG 1.00 par common
Second Bancorp, Incorporated (Ohio)
7½% no par cumulative convertible preferred
Small's Oilfield Services Corporation
\$.001 par common, warrants (expire 07-06-97)
Software Etc. Stores, Inc.
\$.01 par common
Solo Serve Corporation
\$.01 par common
Southwest Bancshares, Inc. (Illinois)
\$.01 par common
Spacelabs Medical, Inc.
\$.01 par common
Spectrum Information Technologies, Inc.
\$.001 par common
Class A, warrants (expire 06-11-93)
Sports Heroes, Inc.
\$.001 par common
Sportstown, Inc.
\$.01 par common
Stac Electronics
No par common
Starbucks Corporation
No par common
Stein Mart, Inc.
No par common
Steris Corporation
No par common
Sterling West Bancorp
No par common
Sunrise Leasing Corporation
\$.01 par common
Supermac Technology, Inc.
\$.001 par common
Tapistron International, Inc.
\$.0004 par common, warrants (expire 06-23-97)
Tecumseh Products Company
Class A, \$1.00 par common
Theratech, Inc.
\$.01 par common
Today's Man, Inc.
No par common
Transmedia Network Inc.
\$.02 par common
TSI Corporation
Warrants (expire 01-31-96)
United States Paging Corporation
\$.01 par common
Universal Hospital Services, Inc.
\$.01 par common

Universal Seismic Associates, Inc.
\$.001 par common
Valence Technology, Inc.
\$.001 par common
Vmark Software, Inc.
\$.01 par common
Wedco Technology, Inc.
\$.10 par common
Westco Bancorp, Inc.
\$.01 par common
Winthrop Resources Corporation
\$.01 par common
Younkers, Inc.
\$.01 par common

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), July 21, 1992.

William W. Wiles,
Secretary of the Board.

[FR Doc. 92-17622 Filed 7-24-92; 8:45 am]
BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052-AB14

Organization; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published final regulations under part 611 on June 17, 1992 (57 FR 26991). The final regulations amend 12 CFR part 611 to address the organization of service corporations under section 4.25 to exercise authority granted under title VIII of the Farm Credit Act of 1971, as amended, to act as certified agricultural mortgage marketing facilities. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the *Federal Register* during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is July 27, 1992.

EFFECTIVE DATE: July 27, 1992.

FOR FURTHER INFORMATION CONTACT:

John J. Hays, FCA Examiner, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4488,

or

Christine C. Dion, Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-

5090, (703) 884-4020, TDD (703) 883-4444.

12 U.S.C. 2252(a) (9) and (10).

Dated: July 22, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-17678 Filed 7-24-92; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-77-AD; Amendment 39-8328; AD 92-16-18]

Airworthiness Directives; Cessna 401, 402, 404, F406, 421, and 441 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 78-06-03, which is applicable to certain Cessna 402 and 421 series airplanes, and AD 88-19-02, which is applicable to certain Cessna 402, 404, F406, 421, and 441 series airplanes. Both of these ADs currently require the installation of a structural reinforcement on Enviroform type commuter-style passenger seats. Service information shows that certain airplanes manufactured without these reinforced seats could be later modified by the installation of seats that have not been reinforced. The Federal Aviation Administration (FAA) has determined that Cessna 401, 402, 404, F406, 421, and 441 series airplanes should require the installation of a structural reinforcement on any Enviroform seat whether installed at the time of the airplane's manufacture or in the field. The actions specified by this AD are intended to prevent failure of Enviroform type commuter-style seats.

DATES: Effective September 10, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 10, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Mr. Larry Abbott, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas; Telephone (316) 946-4120; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Cessna 401, 402, 404, F406, 421, and 441 series airplanes that are equipped with Enviroform type commuter-style passenger seats was published in the Federal Register on April 21, 1992 (57 FR 14518). The action proposed the installation of a structural reinforcement on each Enviroform type commuter-style passenger seat installed either at the time of the airplane's manufacture or by field modification. The proposed actions would be accomplished in accordance with the Modification Instructions section of either Cessna Service Kit SK421-135A, revised August 5, 1988; or Cessna Service Kit SK421-78A, dated October 11, 1977. The proposed AD would supersede AD 78-06-03, Amendment 39-3162, and AD 88-19-02, Amendment 39-6004.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public. After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

It is known that 4,989 of the affected model airplanes have been manufactured. AD 88-19-02 required modification on 2,456 of the affected airplanes and AD 78-06-03 required the same action on 89 of these airplanes. This AD could affect up to 2,444 airplanes (4,989 minus 2,456 minus 89). Because the FAA does not have any readily available records of how many Enviroform commuter seats have been installed during field modification, the following cost analysis presumes that all 2,444 airplanes have unmodified Enviroform commuter seats installed. The FAA anticipates that a much smaller number of airplanes have the seats installed.

Accordingly, the FAA estimates that 2,444 airplanes in the U.S. registry could have unmodified Enviroform commuter seats installed, that it will take

approximately 9 workhours per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Parts cost approximately \$519 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$2,478,216.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 78-06-03, Amendment 39-3162 (43 FR 11969, March 23, 1978), and AD 88-19-02, Amendment 39-6004 (53 FR 32031, August 23, 1988), and adding the following new AD:

92-16-18 Cessna: Amendment 39-8328; Docket No. 91-CE-77-AD. Supersedes AD 78-06-03, Amendment 39-3162; and AD 88-19-02, Amendment 39-6004.

Applicability: Models 401, 402, 402A, 402B, 402C, 404, F406, 421, 421A, 421B, 421C, and 441 airplanes (all serial numbers), certificated in any category, that:

1. Have Enviroform type commuter-style passenger seats installed at either manufacture or by field modification; and

2. Have not installed a structural reinforcement in accordance with the instructions in either Cessna Service Kit SK421-135A, revised August 5, 1988; or Cessna Service Kit SK421-78A, dated October 11, 1977, whichever is applicable.

Note 1: Enviroform seats are molded fiberglass/Kevlar seats instead of the usual padded passenger seats. The seat cushion is held in place with velcro strips and may be removed to check for the installation of the reinforcement kit. The attach bolts and doubler for the reinforcement kit are prominently visible with the cushion removed.

Note 2: None of the Model 401 airplanes were equipped with Enviroform type commuter-style passenger seats at manufacture, but could have had them installed at some point in service.

Compliance: Upon the installation of any Enviroform commuter seat or within the next 100 hours time-in-service after the effective date of this AD, whichever occurs later, unless already accomplished.

Note 3: The requirements of this AD may have already been accomplished in accordance with AD 78-06-03, Amendment 39-3162, or AD 88-19-02, Amendment 39-6004, which are both superseded by this AD.

To prevent passenger injury caused by commuter seat failure, accomplish the following:

(a) Remove, modify, and reinstall the Enviroform type commuter-style passenger seat in accordance with the applicable service information as specified in either paragraph (a)(1) or (a)(2) below:

(1) In accordance with section A. of the Modification Instructions section of Cessna Service Kit SK421-135A, revised August 5, 1988, for the following model and serial number airplanes:

| Models | Serial Nos. |
|--------------------|------------------------------|
| 402B and 402C..... | 402B1047 through 402C1020. |
| 404..... | 404-001 through 404-0859. |
| 421C..... | 421C0055 through 421C1807. |
| F406..... | F406-0001 through F406-0021. |
| 441..... | 441-0001 through 441-0362. |

(2) In accordance with the Modification Instructions section of Cessna Service Kit SK421-78A, dated October 11, 1977, for the following model and serial number airplanes:

| Models | Serial Nos. |
|------------------|------------------------------------|
| 401 and 402..... | 401/402-0001 through 401/402-0322. |
| 402A..... | 402A0001 through 402A0132. |
| 402B..... | 402B0001 through 402B1046. |
| 421..... | 421-001 through 421-0200. |
| 421A..... | 421A0001 through 421A0158. |
| 421B..... | 421B0001 through 421B0943. |

| Models | Serial Nos. |
|-----------|----------------------------|
| 421C..... | 421C0001 through 421C0054. |

(b) For Models 404, F406, and 441 airplanes, accomplish the seat tracking modification in accordance with section B. of the Modification Instructions section of Cessna Service Kit SK421-135A, revised August 5, 1988.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) The modification required by this AD shall be done in accordance with Cessna Service Kit SK421-135A, revised August 5, 1988; or Cessna Service Kit SK421-78A, dated October 11, 1977. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39-8328) supersedes AD 78-06-03, Amendment 39-3162, and AD 88-19-02, Amendment 39-6004.

(g) This amendment (39-8328) becomes effective on September 10, 1992.

Issued in Kansas City, Missouri, on July 15, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate,
Aircraft Certification Office.

[FR Doc. 92-17655 Filed 70-24-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-CE-11-AD; Amendment 39-8331; AD 92-17-02]

Airworthiness Directives; EMBRAER EMB-110 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to EMBRAER (Empresa Brasileira de Aeronautica S.A.) EMB-110 series airplanes. This action requires modification of the rudder trim tab actuating system, reinforcement of the vertical stabilizer rear spar, repetitive inspections of the rudder trim tab actuating system for excessive free play, and modification if the free play exceeds established limits. The Federal Aviation Administration (FAA) has received numerous reports of vibration of the rudder trim tab actuating system on the affected airplanes. The actions specified by this AD are intended to prevent severe vibration or loss of control of the airplane caused by excessive free play and lack of rigidity of the rudder trim tab actuating system.

DATES: Effective September 11, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from EMBRAER, P.O. Box 343-CEP, 12.200 Sao Jose dos Campos, Sao Paulo, Brazil; or EMBRAER Aircraft Corporation, 276 SW 34th Street, Fort Lauderdale, Florida 33315. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis Jackson, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-2910; Facsimile (404) 991-3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain EMBRAER EMB-110 series airplanes was published in the Federal Register on April 1, 1992 (57 FR 11023). The action proposed (1) modification of the rudder trim tab actuating system; (2) reinforcement of the vertical stabilizer rear spar; and (3) repetitive inspections of the rudder trim tab actuating system for excessive free play with modification if free play exceeds 1.0 mm. The trim tab actuating system modification and the installations proposed by this AD would be accomplished in accordance with the instructions in EMBRAER SB 110-027-0089, dated July 19, 1991. The free play

inspection and possible free play modification would be accomplished in accordance with the applicable maintenance manual.

The proposed modification would change the free play limit from 3.3 mm to 1.0 mm. The proposed AD would also allow repetitive inspections of the trim tab actuating system for excessive free play with subsequent modification if free play exceeds 3.3 mm provided that (1) parts are unavailable and the operator has ordered the parts from the manufacturer; and (2) the operator terminates the repetitive inspections and accomplishes the modification when parts become available. The modification procedures in the maintenance manual for the rudder trim tab actuating system if excessive free play exists would be the same whether the criteria is 1.0 mm or 3.3 mm. The only difference would be the criteria for the magnitude of the free play.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment has been received in favor of the proposed rule. After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 84 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 32 workhours per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Parts cost approximately \$1,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$231,840.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the

criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

92-17-02 EMBRAER: Amendment 39-8331; Docket No. 92-CE-11-AD.

Applicability: EMB-110 Series airplanes (all serial numbers), certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent severe vibration or loss of control of the airplane caused by excessive free play and lack of rigidity of the rudder trim tab actuating system, accomplish the following:

Note 1: The compliance times referenced in this AD take precedence over those cited in the referenced service information.

(a) Within the next 500 hours time-in-service (TIS), modify the rudder trim tab actuating system and install reinforcements to the vertical stabilizer rear spar in accordance with the instructions in Figures 1, 2, and 3 of EMBRAER Service Bulletin (SB) 110-027-0089, dated July 19, 1991.

Note 2: EMBRAER SB 110-27-0089 specifies that the airplane should be modified in accordance with EMBRAER SB 110-27-0060—"Replacement of Spherical Bearings of Aileron and Rudder Trim Tab Control Systems Rod Ends". This action is required for the affected airplanes by AD 87-01-05, Amendment 39-5490.

(b) Within 300 hours TIS after accomplishing the modifications required by paragraph (a) of this AD, and thereafter at intervals not to exceed 300 hours TIS, inspect the rudder trim tab actuating system for excessive free play in accordance with the applicable maintenance manual. If free play exceeds 1.0 mm., prior to further flight, modify the rudder trim tab actuating system in accordance with the applicable maintenance manual.

(c) If the parts required by paragraph (a) of this AD have been ordered, but are not available, within the initial 500 hours TIS required by paragraph (a) of this AD, accomplish the following:

(1) Inspect the rudder trim tab actuating system for excessive free play in accordance with the applicable maintenance manual.

(2) If free play exceeds 3.3 mm., prior to further flight, modify the rudder trim tab actuating system in accordance with the applicable maintenance manual.

Note 3: The modification procedures in the maintenance manual for the rudder trim tab actuating system if excessive free play exists are the same whether the criteria is 1.0 mm or 3.3 mm. The only difference is the criteria for the magnitude of the free play.

(3) Reinspect in accordance with paragraphs (c)(1) and (c)(2) of this AD at intervals not to exceed 100 hours TIS until the modifications required by paragraph (a) of this AD are accomplished, but not to exceed three 100-hour TIS repetitive inspection intervals.

(4) When parts become available or 100 hours TIS after the third repetitive inspection required by paragraph (c)(3) of this AD, whichever occurs first, prior to further flight, accomplish the modification required by paragraph (a) of this AD.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta Aircraft Certification Office.

(f) The inspections, reinforcement, and modifications required by this AD shall be done in accordance with EMBRAER Service Bulletin 110-027-0089, dated July 19, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from EMBRAER, P.O. Box 343-CEP, 12.200 Sao Jose dos Campos, Sao Paulo, Brazil; or EMBRAER Aircraft Corporation, 276 SW 34th Street, Fort Lauderdale, Florida 33315. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment (39-8331) becomes effective on September 11, 1992.

Issued in Kansas City, Missouri, on July 17, 1992.

Barry D. Clements,
Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 92-17653 Filed 7-24-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-119-AD; Amendment 39-8311; AD 92-16-02]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Boeing Model 767 series airplanes equipped with General Electric CF6-80C2 engines, that currently requires revising the wiring in certain panels, the wing-body disconnects, and the wing-strut disconnects. That amendment was prompted by an on-going review of the design of thrust reverser systems; the design review was initiated after an accident occurred in which an airplane apparently experienced an uncommanded deployment of a thrust reverser during flight. This amendment revises specific wiring procedures for certain airplanes due to differences identified in the wiring configurations on those planes. The actions specified in this AD are intended to ensure the integrity of the fail safe features of the thrust reverser system by preventing the possible discrepancies in the system that can result in the inadvertent deployment of a thrust reverser during flight. Deployment of a thrust reverser during flight could result in reduced controllability of the airplane.

DATES: Effective July 27, 1992.

The incorporation by reference of Boeing Service Bulletin 767-78A0052, Revision 1, dated February 14, 1992, was approved previously by the Director of the Federal Register as of March 18, 1992 (57 FR 9381, March 18, 1992).

The incorporation by reference of Boeing Service Bulletin 767-78A0052, Revision 2, dated May 28, 1992, as listed in the regulations, is approved by the Director of the Federal Register as of July 27, 1992.

Comments for inclusion in the Rules Docket must be received on or before September 25, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport

Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-119-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. **FOR FURTHER INFORMATION CONTACT:** Mr. Lanny Pinkstaff, Aerospace Engineer, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2684; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: On February 27, 1992, the FAA issued AD 92-06-13, Amendment 39-8193 (57 FR 9381, March 18, 1992), to require the revision of the wiring in certain panels, the wing-body disconnects, and the wing-strut disconnects. This wiring is associated with the thrust reverser control system. That action was prompted by an on-going review of the design of thrust reverser systems on transport category airplanes, which was initiated after an accident occurred in which an airplane apparently experienced an uncommanded deployment of a thrust reverser during flight.

The design review noted that the wiring configuration of the General Electric CF6-80C2 engine thrust reverser, as installed on Boeing Model 767 series airplanes, has the Pressure Regulating Shutoff Valve (PRSOV) and the Directional Pilot Valve (DPV) control wires located in adjacent pins of several wire bundle disconnects. These wires should have pin separation so that the DPV will not have power on adjacent pins. A bent pin in a wire bundle disconnect could contribute to an inadvertent in-flight deployment of the thrust reverser during an "auto-restow" event. Deployment of a thrust reverser during flight could result in reduced controllability of the airplane. The actions required by AD 92-06-13 are intended to ensure the integrity of the fail safe features of the thrust reverser system by preventing the possible discrepancies in the thrust reverser control system that can result in the inadvertent deployment of a thrust reverser during flight.

Since the issuance of that AD, the FAA has reviewed and approved

Revision 2 of Boeing Service Bulletin 767-78A0052, dated May 28, 1992. This revision of the service bulletin includes revised wiring diagrams for certain groups of airplanes. These revised wiring diagrams are necessary since, subsequent to the release of Revision 1 of the service bulletin, differences were identified in the configuration of the wiring schemata on certain airplanes. Operators of those airplanes having the different wiring configurations had difficulty in attempting to revise the wiring in accordance with the diagrams in Revision 1 of the service bulletin (or in accordance with AD 92-06-13, since it referenced Revision 1 as the only appropriate source of service information).

The revised Boeing service bulletin also changes the procedures of the related functional test to include a step to verify that a 6 (plus or minus 4) second 18 to 32 volt direct current (VDC) pulse is registered on the voltmeter.

Additionally, the effectivity listing of the revised Boeing service bulletin includes one additional airplane, and delineates five groups of airplanes that differ due to wiring configuration differences.

The FAA has determined that accomplishing the revised procedures in accordance with the latest revision of the service bulletin is necessary in order to positively address the identified unsafe condition on all affected airplanes. The wiring revisions and corrected functional test procedure will eliminate possible discrepancies in the thrust reverser control system that can result in the inadvertent deployment of a thrust reverser during flight.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 92-06-13 to require revising the wiring in certain panels, the wing-body disconnects, and the wing-strut disconnects in accordance with Revision 2 of the Boeing service bulletin, described previously.

This AD requires that operators accomplish only those procedures that have changed in accordance with Revision 2 of the Boeing service bulletin. Operators who have already accomplished the procedures required by AD 92-06-13 and in accordance with Revision 1 of the service bulletin, need not accomplish any procedure that is identical to one that was specified in Revision 1 of the service bulletin.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment

hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-119-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow

the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-8193 (57 FR 9381, March 18, 1992), and by adding a new airworthiness directive (AD), amendment 39-8311, to read as follows:

92-16-02. Boeing: Amendment 39-8311.

Docket 92-NM-119-AD. Supersedes AD 92-06-13, Amendment 39-8193.

Applicability: Model 767 series airplanes equipped with General Electric CF6-80C2 engines, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent deployment of a thrust reverser during flight, accomplish the following:

(a) For airplanes listed in Boeing Alert Service Bulletin 767-78A0052, Revision 1, dated February 14, 1992: Within 60 days after March 18, 1992 (the effective date of AD 92-06-13, Amendment 39-8193), revise the wiring in certain panels, the wing-body disconnects, and the wing-strut disconnects, in accordance with Boeing Alert Service Bulletin 767-78A0052, Revision 1, dated February 14, 1992.

(b) For airplanes listed in Boeing Alert Service Bulletin 767-78A0052, Revision 2, dated May 28, 1992: Within 60 days after the effective date of this AD, revise the wiring in certain panels, the wing-body disconnects, and the wing-strut disconnects, in accordance

with Boeing Alert Service Bulletin 767-78A0052, Revision 2, dated May 28, 1992. Procedures that were accomplished previously in accordance with Revision 1 of the service bulletin, and that have not changed in Revision 2 of the service bulletin, need not be repeated.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with Boeing Service Bulletin 767-78A0052, Revision 2, dated May 28, 1992, which includes the following list of effective pages:

| Page No. | Revision level | Date |
|--------------------|----------------|--------------------|
| 1, 3-4, 7-8, 12-14 | 2 | May 28, 1992. |
| 2, 5, 10 | 1 | February 14, 1992. |
| 6, 9, 11 | Original | December 10, 1991. |

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of Boeing Service Bulletin 767-78A0052, Revision 1, dated February 14, 1992, was approved previously by the Director of the Federal Register as of March 18, 1992 (57 FR 9381, March 18, 1992). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 27, 1992.

Issued in Renton, Washington, on July 8, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-17654 Filed 7-24-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71**[Airspace Docket No. 91-AGL-14]****Control Zone Modification; DuPage Airport, St. Charles, IL****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This action modifies the control zone airspace near DuPage Airport, Chicago (West Chicago), IL, to accommodate two (2) new Standard Instrument Approach Procedures (SIAPs): VOR runway 01L and ILS runway 01L. This modification also reflects the associated city name of the DuPage Airport as "Chicago (West Chicago)" instead of "St. Charles." The intended effect of this action is to ensure segregation of the aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 u.t.c., October 15, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7568.

SUPPLEMENTARY INFORMATION:**History**

On Tuesday, April 21, 1992, the Federal Aviation Administration proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the control zone airspace near DuPage Airport, Chicago (West Chicago), IL (57 FR 14523).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Control Zones are published in § 71.171 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The control zone listed in this document will be published subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies the control zone airspace near DuPage Airport, Chicago (West Chicago), IL, to accommodate two (2) new SIAPs: VOR runway 01L and ILS runway 01L. This airspace change increases the control

zone radius from three miles to five miles and eliminates its present extension. This modification also reflects the associated city name of the DuPage Airport as "Chicago (West Chicago)" instead of "St. Charles."

The development of new SIAPs requires that the FAA alter the designated airspace to ensure that the procedures will be contained within controlled airspace. The minimum descent altitude for these procedures may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Control zones.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.171 Designation

* * * * *

AGL IL CZ Chicago (West Chicago), IL [Revised]

Chicago (West Chicago), DuPage Airport, IL (lat. 41°54'24" N, long. 88°14'54" W.)

Within a 5-mile radius of DuPage Airport, Chicago (West Chicago), IL.

* * * * *

Issued in Des Plaines, Illinois, on July 14, 1992.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 92-17663 Filed 7-24-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 4****[T.D. ATF-328; Re: Notice Nos. 731 and 594]****Winemaking Terminology (91F-015P)**

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: On November 18, 1991, ATF published in the *Federal Register* a notice of proposed rulemaking, Notice No. 731 (56 FR 58199), to amend regulations defining various winemaking terms used on wine labels. The proposed changes had been previously published on May 29, 1986, as Notice No. 594 (51 FR 19361). ATF decided to republish the proposed changes in Notice 594 because there may have been changes in how winemaking terms are used. The proposal to amend winemaking terms is a result of the decision in *Wawszkiewicz v. Department of the Treasury*, 480 F. Supp. 739 (D.D.C. 1979), *aff'd in part, rev'd in part*, 670 F.2d 296 (D.C. Cir. 1981). The Court of Appeals remanded the case to the lower court with instructions that these regulations (among others) be remanded to ATF for reconsideration and review. ATF has reconsidered these regulations and concludes that they should be amended to specifically define terms used on wine labels to denote winemaking operations performed by the person identified by name and address on the label. The use of geographic terms on wine labels, another issue involved in the litigation, was the subject of TD ATF-229 (51 FR 20480).

EFFECTIVE DATE: July 27, 1994.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Wine and Beer Branch, Bureau of Alcohol, Tobacco and

Firearms, 650 Massachusetts Ave., NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF issued a final rule, Treasury Decision ATF-53 (43 FR 37672, 54824), which extensively revised various regulations governing the labeling of wine. In T.D. ATF-53, ATF also decided not to amend regulations on winemaking terms which denote processes performed by the persons identified by name and address on the label. The plaintiffs in *Wawzskiewicz* challenged the regulations governing the use of winemaking terms on wine labels, among other regulations. They argued that the lack of regulatory definitions for these terms sanctioned misleading labeling.

District Court

The District Court held that the challenged regulations were inconsistent with 27 U.S.C. 205(e). For example, in the court's view the use of a grape variety name implied that 100 percent of the wine was derived from grapes known by that name. The court held that "[b]y assigning inaccurate and undisclosed meanings to words which are otherwise clear and unequivocal, the challenged regulation sanctions the transmittal of false and misleading information." 480 F. Supp. at 744. The District Court decision dwelt primarily on the varietal labeling rule but held that similar shortcomings applied to the other contested rules. *Id.* at 745. The court concluded that wine labels should carry concise explanations of any terminology used where the identity of the producer or maker is represented to the consumer. *Id.* at 745. The District Court ordered that the regulations be remanded to ATF for revision consistent with the conclusion described above.

Court of Appeals

The Court of Appeals disagreed with the District Court's rationale in that a court reviewing agency action is not empowered to substitute its judgment for that of the agency. The Court of Appeals held that an agency's decision should be upheld where there is a rational basis for the decision in the facts of the record. 670 F.2d at 301. Pursuant to this test, the court upheld the regulations governing varietal labeling but found that the regulations concerning winemaking terminology had not been adequately explained, "either by reference to the records or by a reasoned statement." *Id.* at 304. The Court of Appeals remanded the case to the District Court with instructions that

the regulations governing winemaking terminology be remanded to ATF for review and reconsideration in light of the appellate court's decision. The court thus afforded ATF an opportunity either to show that the regulations "meaningfully control misleading labeling and advertising," or to rewrite the regulations "in such fashion that the agency can demonstrate compliance with the statutory mandates." *Id.* at 304. No specific instructions were provided by either court nor were any dates set in connection with the review or reconsideration.

Related Rulemaking

Definitions of various winemaking terms which are indicative of specific processes used in the production of wine are set forth in this Treasury decision. ATF has previously issued a general statement of policy, Notice No. 576 (50 FR 51849), explaining its decision on appellation of origin percentages and geographic, corporate and trade names, by reference to the records and by a reasoned statement. In T.D. ATF-229 (51 FR 20480), ATF revised 27 CFR 4.39(i), geographic brand names, to permit a brand name of viticultural significance to be used on a label only if the wine meets the appellation of origin requirements of the geographic area named.

Current Rules on Winemaking Terminology

Under 27 CFR 4.35, the name and address of the bottler or packer must be shown on the label. The word "produced" is defined, and the undefined words "blended," "rectified," "prepared," and "made" are given as examples of words which may appear in conjunction with the required name and address of the bottler or packer. In addition, the undefined word "manufactured" may appear on the label of imitation wine only, in conjunction with the required name and address of the bottler or packer.

In ATF Ruling 79-2, A.T.F.Q.B. 1979-1, 21, ATF defined these and other words contemplated for use in the same context. This ruling defined "made," "prepared," "blended," "rectified," and "cellared" for use in conjunction with the words "bottled by" preceding the required name and address of the bottler. In *Wawzskiewicz*, the court focused on the definitions of "produced" and "made," finding that "[i]t is by no means intuitively clear why it is not misleading for a winery to represent that it produced a wine when another was heavily involved in its production, or that it made a wine that it in fact purchased." 670 F.2d at 304.

Therefore, ATF is eliminating the disparity between the definitions of "produced" and "made," and defining other words currently being used on wine labels to denote specific winemaking operations performed by the persons identified by name and address on the label. These definitions are derived, in part, from ATF Ruling 79-2, and they reflect long-standing ATF policy and industry usage.

Notice Nos. 594 and 731

Notice No. 594, published on May 29, 1986, proposed that certain words denoting specific winemaking operations, when used in conjunction with the required name and address legend on a wine label, shall have defined meanings. Because there may have been changes in how winemaking terms are used since Notice No. 594, ATF republished the proposed changes in the *Federal Register* on November 18, 1991, Notice No. 731. In the notices ATF proposed to (1) eliminate the disparity between the words "produced" and "made," as suggested by the Court of Appeals in the *Wawzskiewicz* litigation, (2) incorporate definitions of "prepared," "blended," and "cellared," previously issued in ATF Ruling 79-2, (3) remove, as obsolete, references to the words "rectified" and "manufactured," and (4) define the undefined words "vinted" and "vinified" which are currently used on labels. These proposals are described more completely below.

(1) "Produced" or "made" means that the named winery: (a) fermented not less than 75 percent of such wine at the stated address, or (b) changed the class or type of the wine by addition of alcohol, brandy, flavors, colors, artificial carbonation at the stated address, or (c) produced sparkling wine by secondary fermentation at the stated address.

(2) "Vinified" means that the named winery: (a) fermented not less than 75 percent of such wine at the stated address, or (b) produced sparkling wine by secondary fermentation at the stated address.

(3) "Blended" means that the named winery mixed the wine with other wines of the same class and type at the stated address.

(4) "Cellared," "vinted," or "prepared" means that the named winery, at the stated address, subjected the wine to cellar treatment in accordance with § 4.22(c), which did not result in a change of class or type.

The word "rectified," as defined in ATF Ruling 79-2, refers to the production of a wine product at a distilled spirits plant, an activity which

was subsequently addressed by the passage of the Distilled Spirits Tax Revision Act of 1979, P.L. 96-39, 93 Stat. 144. Under present law, a wine or wine product may not be removed from the bonded premises of a distilled spirits plant (26 U.S.C. 5362(b)). Therefore, this word was not included in the defined terms.

The word "manufactured," given as an example of a word which may appear on the label of imitation wine only was eliminated. ATF believes that this word has not been used in many years. In addition, the word "artificial" or "imitation" on labels of imitation wines adequately informs the consumer of the presence of synthetic ingredients, and the word "manufactured" serves no purpose in this context. Also, conforming changes were proposed in Notice No. 594 relating to words used on imported wines to denote winemaking operations. The words used, or their English-language equivalents, must meet the requirements of the country of origin for wines sold within the country of origin. In addition, the mandatory name and address statements on imported wine were rewritten using more concise wording for clarity.

The requirement to obtain a certificate of label approval would preclude the introduction of new, undefined words denoting winemaking operations. Additionally, ATF could define new words for use on wine labels coined in the future as needed.

Comments on Notice No. 594

ATF received six public comments on Notice No. 594 raising the following four issues: Length of implementation period, labeling of the principal place of business, use of the words "grown by," and Dr. Edward Wawszkiewicz's 1983 consumer survey.

Length of Implementation Date

In Notice No. 594, ATF specifically asked for public comments on the duration of the implementation period. Two commenters recommended a one year period. The implementation period will be 2 years for reasons stated later in the discussion of the proposals.

Principal Place of Business

Two commenters stated that only one address should be required on the label even if fermentation and bottling occurred at two different wineries operated by the same company. In essence, this was considered a request to allow the labeling of the principal place of business for wines, previously approved for malt beverages in T.D. ATF-225, effective May 1, 1986, and for distilled spirits in T.D. ATF-260,

effective December 3, 1987. The existing wine labeling regulations require more than one address to appear if the named operation occurred at more than one location. This rule is unchanged since it was first issued in 1935. It is based on the fact that wine consumers, unlike other consumers, take more interest in geographic names on labels. Therefore, ATF believes that a more restrictive rule is necessary for wines in comparison to malt beverages or distilled spirits. The Wine Institute submitted a petition for rulemaking to allow one address to be shown on a label if the same company produced and bottled the wine within the same viticultural area. ATF published the Wine Institute's petition as an advance notice of proposed rulemaking in the *Federal Register* on July 1, 1991, Notice No. 720 (56 FR 29913). After receiving comments that allowing one address to be shown on a label, even if the same company produced and bottled the wine within the same viticultural area, would be misleading to the consumer, ATF decided to deny the Wine Institute's petition. However, the issue of allowing one address to be shown on a label if the same winery proprietor produced and bottled the wine continues to be under study and may be the subject of future rulemaking.

Use of the Words "Grown by"

Two commenters favored adding a definition of the word "grown." ATF did not propose to define the word "grown" in Notice No. 594 since the term is related to viticulture rather than winemaking. ATF's current policy on the use of this term in the address statement or as additional, truthful information on labels, requires that 100% of the grapes be grown by the named person at the stated address. If the label states "grown, produced, and bottled by," all three operations must occur at the same address. If growing occurred at a different address, more than one address statement is required. In addition, the grapes must be grown on land owned or controlled by the same person. At the present time ATF does not believe that it is appropriate to issue a regulation on use of the word "grown" on wine labels since to do so would require a set blending tolerance. ATF believes that using a label approval policy, in lieu of a codified regulation, is more effective in this particular case. Therefore, ATF will continue to approve the use of the word "grown" on a case-by-case basis.

Dr. Edward Wawszkiewicz's 1983 Consumer Survey

Dr. Wawszkiewicz commissioned a consumer survey in 1983, conducted by the University of Illinois Survey Research Laboratory. Mr. Robert W. Benson, co-plaintiff in the *Wawszkiewicz* litigation, submitted this survey as part of a public comment on Notice No. 594. ATF believes that the bias of the survey is made clear in the discussion of the existing regulations under the heading "Survey Results." The survey showed consumers nine sample labels and asked questions about information conveyed in the labels. The wording of the questions showed that the surveyor attempted to demonstrate flaws in the existing regulatory framework rather than test the knowledge of consumers. A copy of this survey is available as part of the comment file for anyone interested in reviewing the questions and responses.

Comments on Notice No. 731

ATF received 11 public comments on Notice No. 731. The implementation date issue and a definition of the term "grown" were not addressed by any of these commenters. Two of the commenters again proposed allowing one address to be shown on a label if the same company produced and bottled the wine within the same viticultural area.

Dr. Wawszkiewicz also referred to his commissioned consumer survey in 1983 conducted by the University of Illinois Survey Research Laboratory.

The main theme of the commenters was that too many winemaking terms were proposed which mean the same thing.

Produced and Made

One commenter wanted the present definition to stay as it is because many winery proprietors blend wines produced by other winery proprietors and are used to using this term. ATF has concluded that the use of the terms "produced by" or "made by" connote that the proprietor of the named winery controlled all phases of the winemaking process including a high percentage of the fermentation. ATF is adopting the 75 percent standard suggested in the notice because this figure is believed to be high enough for the winery proprietor to legitimately claim full credit for the wine despite the use of another proprietors' wine for blending. ATF further believes that allowing up to 25 percent blending wine fermented by another winery proprietor allows the maximum blending flexibility without allowing the wine to be so "watered down" with other

peoples wine so as to make the producer's claim specious. One commenter, Dr. Wawszkiewicz, argued that the percentage should be 100 percent fermented by the proprietor of the named winery. Another commenter basically agreed with Dr. Wawszkiewicz, except that he would allow 75 percent produced if such were stated on the label. We are not convinced, after considering all of the various operations involved with producing wine, that 100 percent is reasonable or necessarily even implied by a simple claim that the winery proprietor produced the wine.

Vinified

Several commenters stated that the terms "vinified" and "vinted" were too closely related to allow for different definitions for each and as such would mislead the consumer. Except for one comment, the commenters favored eliminating vinified and keeping vinted as proposed. ATF agrees with the commenters and therefore, vinified is not included as a defined term in the final regulations.

Vinted, Cellared, and Prepared

While the commenters would have preferred to have one of these terms instead of three for the same definition, ATF has determined that all three terms are widely used. Therefore, the winemaking terms "vinted," "cellared" and "prepared" will be as proposed with one modification. The wine need only have been subjected to cellar treatment in accordance with § 4.22(c) and not also require a change in class or type for the three winemaking terms to be used. Since the winemaking terms "produced" or "made" are more restrictive by definition, ATF believes the terms "vinted," "cellared," or "prepared" can be used in place of "produced" or "made." Also, a small winery proprietor may want to use the less restrictive term to reduce the cost of having different labels when both wines are being sold.

Blended

There was no objection to the winemaking term "blended" so this term will appear in the final regulations as proposed.

Rectified and Manufactured

The terms "rectified" or "manufactured" are not defined in the final regulations and there was no objection to the proposed elimination of these terms.

Conclusion

As one can see from the preceding discussion, ATF's efforts to sum up

winemaking practices by using one word descriptors has been very difficult. Winemaking is a complex process that involves a variety of operations any one of which can significantly affect the character and quality of the finished wine. One thing that is abundantly clear at the end of this rulemaking is that the terms addressed have no clear and unequivocal meaning generally understood by consumers. The average consumer probably has only a general understanding of what is involved in winemaking. Consumers who have not made a study of wines and winemaking may recognize fermentation as the key process but would not likely appreciate the importance of some of the other winemaking techniques, such as blending, aging and finishing, even though these operations are just as important in determining the final character of the wine. Any generalizations of the American wine industry and standard winemaking practices are also very difficult because operations vary widely from winery to winery and from product to product. On one extreme are small winery proprietors who ferment, blend, age, finish and bottle wines using only grapes from their own vineyards. On the other extreme are the winery proprietors who only purchase finished wine for bottling under private brand labels. The operations of most winery proprietors fall somewhere in between. Moreover, the different products of any particular winery proprietor may well involve different combinations of operations for different wines. A vintage dated varietal wine might be produced primarily from grapes grown by the winery proprietor, or from grapes purchased from other growers. Depending on the desired finished wine, some wine produced by another winery proprietor may also be used for blending, but the finished wine is still going to be predominantly composed of wine that the winery proprietor controlled from fermentation through finishing. The art of producing these wines is found in capturing the unique characteristics of the grapes from a particular year through careful selection of the grapes, and skillful control over the fermentation, blending, aging and finishing processes. The goal of the winemaker is to produce a distinctive, complex wine that captures the unique qualities of the grape.

The production of popular semi-generic wines also require a skilled application of winemaking processes. The origin of this type of wine may be traced to unfinished wine purchased and finished by the winery proprietor. The art of producing these popular products, however, requires equal skill

in order to achieve the distinctive but consistent product with the same taste, color, and other characteristics that consumers expect from this wine year after year.

These are only examples of how wine is made. The variations on these possibilities are as numerous as the number of wines being made. ATF's goal has been to identify those words that can best capture these operations in such a way as to both give consumers information they want to know about the origin of the wine, and give winemakers an ability to claim credit for the efforts they have put into the wine.

In giving definition to those terms that have traditionally been used on wine labels, ATF has attempted to set standards that fairly reflect the winery proprietors contribution to the wine. At the same time, ATF has sought to avoid a situation where a winery proprietor would deviate from good commercial practice and change a practice just to meet an arbitrary restrictive standard.

Implementation Date

The effective date of the regulations is July 27, 1994. ATF believes this will allow sufficient time for proprietors using the winemaking term "vinified" to change to a defined term and for proprietors to otherwise make any necessary changes in their labels to comply with a terminology change.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because this final rule is not expected (1) to have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in Executive Order 12291, and a regulatory impact analysis is not required because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based

enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is James A. Hunt, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

Authority and Issuance

Accordingly, 27 CFR part 4, is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205

Par. 2. Section 4.35 is amended by adding a new paragraph (e) to read as follows:

§ 4.35 Name and address.

(e) This section does not apply after July 27, 1994.

Par. 3. Section 4.35a is added to read as follows:

§ 4.35a Name and address.

(a) *American wine.*—(1) *Mandatory statement.* A label on each container of American wine shall state either "bottled by" or "packed by" followed by the name of the bottler or packer and the address (in accordance with paragraph (c)) of the place where the wine was bottled or packed. Other words may also be stated in addition to the required words "bottled by" or "packed by" and the required name and address if the use of such words is in accordance with paragraph (a)(2) of this section.

(2) *Optional statements.* (i) In addition to the statement required by paragraph (a)(1), the label may also state the name and address of any other person for whom the wine was bottled or packed, immediately preceded by the words "bottled for" or "packed for" or "distributed by."

(ii) The words defined in paragraphs (a)(2)(iii)–(a)(2)(vi) may be used, in accordance with the definitions given, in addition to the name and address statement required by paragraph (a)(1). Use of these words may be conjoined, using the word "and", and with the words "bottled by" or "packed by" only if the same person performed the defined operation at the same address. More than one name is necessary if the defined operation was performed by a person other than the bottler or packer and more than one address statement is necessary if the defined operation was performed at a different address.

(iii) *Produced or Made* means that the named winery:

(A) Fermented not less than 75% of such wine at the stated address, or

(B) Changed the class or type of the wine by addition of alcohol, brandy, flavors, colors, or artificial carbonation at the stated address, or

(C) Produced sparkling wine by secondary fermentation at the stated address.

(iv) *Blended* means that the named winery mixed the wine with other wines of the same class and type at the stated address.

(v) *Celled, Vinted or Prepared* means that the named winery, at the stated address, subjected the wine to cellar treatment in accordance with § 4.22(c).

(b) *Imported wine.*—(1) *Mandatory statements.* (i) A label on each container of imported wine shall state "imported by" or a similar appropriate phrase, followed immediately by the name of the importer, agent, sole distributor, or other person responsible for the importation, followed immediately by the address of the principal place of business in the United States of the named person.

(ii) If the wine was bottled or packed in the United States, the label shall also state one of the following:

(A) "Bottled by" or "packed by" followed by the name of the bottler or packer and the address (in accordance with paragraph (c)) of the place where the wine was bottled or packed; or

(B) If the wine was bottled or packed for the person responsible for the importation, the words "imported by and bottled (packed) in the United States for" (or a similar appropriate phrase) followed by the name and address of the principal place of business in the United States of the person responsible for the importation; or

(C) If the wine was bottled or packed by the person responsible for the importation, the words "imported and bottled (packed) by" followed by the

name and address of the principal place of business in the United States of the person responsible for the importation.

(iii) If the wine was blended, bottled or packed in a foreign country other than the country of origin, and the label identifies the country of origin, the label shall state "blended by," "bottled by," or "packed by," or other appropriate statement, followed by the name of the blender, bottler or packer and the place where the wine was blended, bottled or packed.

(2) *Optional statements.*—In addition to the statements required by paragraph (b) (1), the label may also state the name and address of the principal place of business of the foreign producer. Other words, or their English-language equivalents, denoting winemaking operations may be used in accordance with the requirements of the country of origin, for wines sold within the country of origin.

(c) *Form of address.* The "place" stated shall be the post office address shown on the basic permit or other qualifying document of the premises at which the operations took place; and there shall be shown the address for each operation which is designated on the label. An example of such use would be "Produced at Gilroy, California, and bottled at San Mateo, California, by XYZ Winery," except that the street address may be omitted. No additional places or addresses shall be stated for the same person unless:

(1) Such person is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and

(2) The label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular product.

(d) *Trade or operating names.* The trade or operating name of any person appearing upon any label shall be identical with a name appearing on the basic permit or other qualifying document.

(e) The provisions of this section are optional until they become mandatory July 27, 1992.

Signed: June 12, 1992.

Stephen E. Higgins,
Director.

Approved: July 6, 1992.

Peter K. Nunez,
Assistant Secretary (Enforcement)
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the North Dakota Abandoned Mine Land Reclamation (AMLR) Plan (North Dakota Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231 *et seq.* The amendment was submitted to OSM on October 31, 1991, and proposed to create a State abandoned mine reclamation fund set-aside trust account.

EFFECTIVE DATE: July 27, 1992.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261-5824.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Plan

The Secretary of the Interior approved the North Dakota AMLR Plan on December 23, 1981. Information pertinent to the general background, revisions, and amendments to the initial program submission, as well as the Secretary's findings and disposition of comments can be found in the December 23, 1981 Federal Register (46 FR 62256). Subsequent actions concerning the North Dakota Plan and amendments to the Plan can be found at 30 CFR 934.20 and 934.25.

II. Discussion of Proposed Amendment

By letter dated October 31, 1991, North Dakota submitted a reclamation plan amendment to OSM (Administrative Record No. ND-N-02). The proposed amendment consists of new language to establish a special fund that would set-aside ten percent of the funds granted to the State by the Secretary for reclamation of abandoned coal mine sites. The funds and accrued interest (the Fund) would be expended for purposes enumerated in Section 403 of SMCRA (as amended by the Omnibus Budget Reconciliation Act of 1990). North Dakota submitted the proposed amendment on its own initiative.

OSM announced receipt of the proposed amendment in the December 13, 1991, Federal Register (56 FR 65033) (Administrative Record No. ND-N-02)

and in the same notice, opened the public comment period and provided an opportunity for a public hearing on the substantive adequacy of the proposed amendment. The public comment period closed on January 13, 1992. A public hearing was not held because no one requested an opportunity to testify.

By letter dated March 6, 1992, OSM notified the State that a review of the proposed amendment identified two provisions that did not appear to be in accordance with the title IV requirements of SMCRA. They include: (1) The proposed provision at NDCC 38-14.2-04(3) that, as submitted, would allow monies from the Fund to be used for both coal and non-coal reclamation projects; and (2) at NDCC 38-14.2-06, the State would require that all land and water eligible for reclamation or drainage abatement must have been abandoned, unreclaimed, or inadequately reclaimed prior to July 1, 1979. Under SMCRA, Fund monies are intended to be used for coal reclamation projects only. The Federal program requires that lands and water that are eligible for reclamation are those that were abandoned, unreclaimed, or inadequately reclaimed prior to the August 3, 1977, enactment of SMCRA.

The State responded to these issues in letters of March 23, 1992, (Administrative Record No. ND-N-16), and June 15, 1992, (Administrative Record No. ND-N-19).

Regarding non-coal reclamation projects being funded out of the Fund, the State responded that the Commission plans to propose an amendment to the North Dakota Century Code during the Fifty-Fourth Legislative Session that will exclude any reference to non-coal reclamation.

Concerning the date that lands and waters are considered eligible for reclamation (those prior to the August 3, 1977, enactment of SMCRA), the State initially responded that it would prefer to retain the 1979 project eligibility date. Subsequently, the State agreed that the statute referencing the 1979 date is confusing, and responded that the project eligibility date and accompanying language would be changed to reflect the date SMCRA was enacted, during the State's upcoming Fifty-Fourth Legislative Session.

III. Director's Findings

The Director finds, in accordance with section 405 of SMCRA, that the proposed amendment to the North Dakota Program submitted on October 31, 1991, with two exceptions, is not inconsistent with SMCRA and the North Dakota Plan.

North Dakota will be required to amend its Plan in a manner to ensure that funds from the Fund cannot be used to reclaim non-coal reclamation projects. In its letter of March 23, 1992 (Administrative Record No. ND-N-16), North Dakota agreed to change its Plan to resolve the issue.

North Dakota will be required to amend its Plan in a manner to ensure that the date that lands and water become eligible for funding is set at August 3, 1977. In its letter of June 15, 1992, North Dakota agreed to change the date to reflect the date of the enactment of SMCRA, during the next session of the State legislature.

The Director has determined, pursuant to 30 CFR 884.14, that:

1. The public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure necessary to implement the Plan Amendment.

4. The Plan Amendment meets all requirements of OSM's AMLR program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. The Plan Amendment, with the exceptions identified in the notice, is in compliance with all applicable State and Federal laws and regulations.

IV. Summary and Disposition of Comments

1. Public Comments

In accordance with 30 CFR 884.15(a), the Director solicited public comments and provided an opportunity for a public hearing on the Plan Amendment in the December 13, 1991, Federal Register (56 FR 65033). As of January 13, 1992, the close of the public comment period, no public comments had been received. Since no one requested an opportunity to testify at a public hearing, none was held.

2. Agency Comments

Pursuant to 30 CFR 884.15(a) and 884.14(a)(2), the Director solicited comments from other Federal and State agencies with an actual or potential interest in the North Dakota Plan.

By letter dated December 13, 1991, the U.S. Fish and Wildlife Service stated that it did not anticipate any significant impacts to fish and wildlife resources as a result of the proposed rule (Administrative Record No. ND-N-10).

By letter dated January 2, 1992, the Department of the Army, U.S. Corps of Engineers indicated that it had no interest or comment (Administrative Record No. ND-N-08).

By letter dated January 2, 1992, the Bureau of Indian Affairs expressed no objections to the proposed Plan amendment because Indian lands are not affected (Administrative Record No. ND-N-09).

By letter dated January 6, 1992, the Bureau of Reclamation stated that it had no comments on the proposed amendment (Administrative Record No. ND-N-11).

By letter dated January 8, 1992, the State Historical Society of North Dakota acknowledged receipt of the Plan Amendment and has no objections to it (Administrative Record No. ND-N-12).

By letter dated February 4, 1992, the U.S. Department of Labor, Mine Safety and Health Administration noted that the proposed amendment does not appear to conflict with any current MSHA regulations which pertain to refuse piles and impoundments (Administrative Record No. ND-N-14).

By letter dated May 28, 1992, the U.S. Environmental Protection Agency noted that the revisions do not change the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, and provided concurrence (Administrative Record No. ND-N-18).

V. Director's Decision

The Director finds that the North Dakota proposed amendment is in accordance with section 405 of SMCRA and the Secretary's regulations at 30 CFR Part 884.15, with exceptions concerning use of the Fund for the funding of non-coal reclamation projects; and the date that lands and water become eligible for reclamation funding, and is approving it. The Federal regulations at 30 CFR Part 934, codifying decisions concerning the North Dakota Plan are amended to implement this decision.

VI. Procedural Matters

National Environmental Policy Act

Approval of State or Tribe AMLR plans and amendments is categorically excluded from compliance with the National Environmental Policy Act by the Department of the Interior's Manual, 516 DM 6, appendix 8, paragraph 8.4B(29).

Executive Order 12291 and the Regulatory Flexibility Act

On March 30, 1992, the Office of Management and Budget (OMB) granted

OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for decisions to approve or disapprove State or Tribe abandoned mine land plans and amendments. Accordingly, for this action, OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require any regulatory review by OMB. The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal regulations will be met by the State or Tribe.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of Executive Order 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined that this rule meets the applicable standards of section 2(a) and 2(b) of Executive Order 12778. Under SMCRA section 405 and 30 CFR 884 and section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval or conditional approval of State program amendments.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 934

Abandoned Mine Land Reclamation, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 24, 1992.

Raymond L. Lowrie,
Assistant Director, Western Support Center.

30 CFR Part 934 is amended as follows:

PART 934—NORTH DAKOTA

1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 934.20 is revised to read as follows:

§ 934.20 Approval of North Dakota abandoned mine plan.

The North Dakota Abandoned Mine Plan as submitted on July 28, 1981, is approved. Copies of the approved program are available at:

Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, room 2128, Casper, WY 82601-1918; Telephone: (307) 261-5776.

North Dakota Public Service Commission, Abandoned Mine Land Division, State Capitol, Bismarck, ND 58505; Telephone: (701) 224-4096.

3. Section 934.25 is revised to read as follows:

§ 934.25 Approval of abandoned mine land reclamation plan amendments.

(a) The North Dakota Abandoned Mine Plan amendment submitted on March 4, 1983, is approved.

(b) The North Dakota Mine Plan amendment submitted September 15, 1987, is approved effective July 18, 1988.

(c) The North Dakota Mine Plan amendment as submitted on October 31, 1991, is approved effective July 27, 1992, with the provision that North Dakota amend its Plan to ensure that monies from the Fund cannot be used to reclaim non-coal reclamation projects as the State agreed to do in its March 23, 1992, letter (Administrative Record No. ND-N-16); and that the date lands and water become eligible for funding for reclamation projects is prior to the August 3, 1977, enactment of SMCRA, as the State agreed to do in its June 15, 1992, letter (Administrative Record No. ND-N-19).

[FR Doc. 92-17574 Filed 7-24-92; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 925

Ohio Regulatory Program; Revision of Administrative Rules and Statute

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment (Revised Program Amendment Number 43) is intended to revise nine administrative rules and one statutory section of the Ohio program to be consistent with the

corresponding Federal regulations. The proposed amendment concerns regulations governing termination of jurisdiction; the definition of "road;" permit requirements, performance standards, and reclamation requirements for roads; permit and design requirements for impoundments and coal mine waste structures; spillway requirements for impoundments; vegetation stocking and success standards; husbandry practices for revegetation; and general requirements for description, plans, and drawings for support facilities.

EFFECTIVE DATE: July 27, 1992.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard J. Seibel, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232; (614) 866-0578.

SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Program.
- II. Submission of Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, *Federal Register* (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Submission of Amendment

By letter dated November 17, 1989 (Administrative Record No. OH-1240), the Director of OSM notified the Ohio Department of Natural Resources, Division of Reclamation (Ohio) of a number of Federal regulations promulgated between September 7, 1988, and November 8, 1988, for which OSM had determined that the corresponding Ohio rules were now less effective than the new Federal counterparts. In response to the OSM notification, Ohio submitted proposed Program Amendment Number 43 by letter dated January 18, 1990 (Administrative Record No. OH-1265). This amendment proposed revisions to eight sections of the Ohio Administrative Code (OAC).

OSM announced receipt of proposed Program Amendment Number 43 in the February 2, 1990, *Federal Register* (55 FR

3604), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on March 5, 1990. The public hearing scheduled for February 27, 1990, was not held as no one requested an opportunity to testify.

By letter dated August 17, 1990 (Ohio Administrative Record No. OH-1354), Ohio submitted Revised Program Amendment Number 43 containing two further proposed revisions to OAC Section 1501.13-9-04. These two revisions were intended to make the proposed rule as effective as the corresponding Federal regulations concerning sediment pond and impoundment spillways.

OSM announced receipt of Revised Program Amendment Number 43 in the September 6, 1990, *Federal Register* (55 FR 36661), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on October 9, 1990. The public hearing scheduled for October 1, 1990, was not held as no one requested an opportunity to testify.

On January 7, 1991, OSM sent its comments to Ohio on both Program Amendment Number 43 and Revised Program Amendment Number 43 (Ohio Administrative Record No. OH-1430). In response to OSM's letter, Ohio submitted additional proposed changes to Revised Program Amendment Number 43 on February 12, 1991 (Ohio Administrative Record No. OH-1454). In that submission, Ohio proposed further revisions to three rules and deleted previously proposed changes to one other rule. These revisions concerned termination of jurisdiction, public roadways, sedimentation pond and impoundment spillways, and certification of primary roads. Ohio withdrew proposed paragraphs OAC 1501.12-1-01(D) (1) and (2) concerning termination of jurisdiction because the corresponding Federal regulations were remanded by the U.S. District Court as contrary to SMCRA (*National Wildlife Federation, et al., v. Lujan*, No. 88-3345 (D.D.C. August 30, 1990)). Also in that submission, Ohio requested a 30-day extension of time to submit design standards which will be proposed for use in lieu of engineering tests to ensure compliance with the minimum static safety factor for certain impoundments and primary road embankments.

OSM announced receipt of Ohio's additional proposed changes to Revised Program Amendment Number 43 in the March 6, 1991, *Federal Register* (56 FR

9312), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on April 5, 1991. The public hearing scheduled for April 1, 1991, was not held as no one requested an opportunity to testify.

By letter dated March 14, 1991 (Ohio Administrative Record No. OH-1481), Ohio requested a 30-day extension for submittal of the design standards described above. OSM approved this extension on March 18, 1991 (Ohio Administrative Record No. OH-1483). By letter dated April 22, 1991 (Ohio Administrative Record No. OH-1511), Ohio requested a 60-day extension for submittal of the design standards. OSM approved this extension on May 1, 1991 (Administrative Record No. OH-1514).

By letter dated June 24, 1991 (Ohio Administrative Record No. OH-1538), Ohio submitted further revisions to and administrative record documents in support of Revised Program Amendment Number 43. These revisions concerned design criteria for certain road and impoundment embankments, the definition of "road," and the inclusion of public roadways within the definition of "coal mining operation" or "operation."

OSM announced receipt of Ohio's additional proposed changes to Revised Program Amendment Number 43 in the July 12, 1991, *Federal Register* (56 FR 31896), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on August 12, 1991. The public hearing scheduled for August 6, 1991, was not held as no one requested an opportunity to testify.

By letter dated September 18, 1991 (Administrative Record No. OH-1583), OSM sent its comments to Ohio on the June 24, 1991, resubmission of Revised Program Amendment Number 43. By letter dated October 15, 1991 (Ohio Administrative Record No. OH-1603), Ohio requested a 90-day extension for submittal of requested design standards. OSM approved this extension on October 18, 1991 (Ohio Administrative Record No. OH-1604).

In response to OSM's September 18, 1991, letter, Ohio submitted additional proposed changes to Revised Program Amendment Number 43 on January 21, 1992 (Ohio Administrative Record No. OH-1635). In that submission, Ohio proposed further revisions to four rules and provided additional supporting documentation for its calculation of embankment design standards.

OSM announced receipt of Ohio's additional proposed changes to Revised Program Amendment Number 43 in the April 13, 1992, *Federal Register* (57 FR 12777), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on May 13, 1992. The public hearing scheduled for May 8, 1992, was not held as no one requested an opportunity to testify.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, are the Director's findings concerning the proposed amendment. Any revisions not specifically discussed below are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions which are not discussed below concern nonsubstantive wording changes or revise cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

1. OAC 1501:13-1-02, ORC 1513.01 Definitions

(a) *Affected area*. Ohio proposes to amend the definition of "affected area" at paragraph 1501:13-1-02(E)(1)(d) to include criteria to be used in determining whether mining will affect a public roadway. A public road need not be included in the definition of "affected area" if it meets the following criteria.

- (i) The public roadway was in existence prior to the application for permit;
- (ii) The effect on the public roadway from mining use will be minor; and
- (iii) The public roadway is incidentally rather than directly, part of the mining operation.

Ohio's existing definition of "affected area" excludes public roadways. OSM informed Ohio that this exclusion conflicted with the Court's ruling in *In re: Permanent Surface Mining Regulation Litigation II*, 620 F. Supp. 1519 (D.D.C. 1985), modified *sub nom. National Wildlife Federation v. Hodel*, 839 F.2d 694 (D.C. Cir. 1988), in that roadways cannot be excluded from regulation on the basis of public status or extent of public use. The court remanded the rule and stated that in determining whether a public road should be permitted, the extent of mining-related use rather than the public use should be considered, and that if the effect of the mining-related use is only *de minimis*, or relatively minor, then the public road is not part of the surface coal mining operation and does not have to be permitted. See 620 F. Supp. 1519,

1562. In response to the Court's ruling, on November 20, 1986, OSM suspended its definition of "affected area" at 30 CFR 701.5 to the extent that it excludes public roads which are included in the definition of "surface coal mining operations." OSM has since stated that the determination of whether a particular public road is included in the definition of "surface coal mining operations" must be made on a case-by-case basis (53 FR 45190, 45192, November 8, 1988). Ohio is only excluding public roads that have a minimal effect on mining, which is consistent with the Court's opinion. The Director finds that the revised State definition is no less effective than the Federal definition of "affected area" at 30 CFR 701.5.

(b) *Road*. Ohio is rewriting the definition of "road" at paragraph 1501:13-1-02(YYYY) to state that the term "road" does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

Ohio's existing definition of "road" is similar to the Federal definition of "road" at 30 CFR 701.5. However, unlike the Federal regulation, Ohio's definition included an explicit exemption for pioneer roads. OSM informed Ohio that to be no less effective than the Federal definition, Ohio needed to clarify that pioneer roads are subject to those performance standards applicable to the road construction process. In this amendment, Ohio proposes to delete the exclusion for "pioneer or construction roadway used for part of the road construction procedure." This amendment clarifies that pioneer roads are subject to those performance standards applicable to the road construction process.

Ohio is proposing to add a statement which specifically excludes ramps and routes of travel within the immediate mining area and within excess spoil or coal mine waste disposal areas. This statement is identical to the Federal terminology concerning the exemption.

Ohio is also proposing to include criteria for determining whether mining will affect a public roadway. The criteria are the same as those discussed earlier under the definition of "affected area." This revision is proposed as a result of the decision in *In re: Permanent Surface Mining Regulation Litigation II*, where the Court ruled that roadways could not be excluded from regulation on the basis of public status or extent of public use, but that such a determination instead should be based on the impact of mining use on the roadway. Jurisdiction under SMCRA and applicability of the performance

standards are best determined on a case-by-case basis by the regulatory authority (53 FR 45193, November 8, 1988). The proposed change, therefore, allows the Chief to determine on a case-by-case basis whether jurisdiction should be extended to a road outside the permit area by virtue of whether or not a road's use by a mining operation will be minor. The proposed changes satisfy the Court's decision.

The Director finds that the revised State definition is no less effective than the counterpart Federal definition of "road" at 30 CFR 701.5.

(c) *Coal mining operation or operation*. Ohio is proposing to amend the definition of "coal mining operation" or "operation" at Ohio Revised Code 1513.01(G)(2) to eliminate language exempting public roadways. Ohio's existing definition included the exemption for public roads. The Federal definition of "surface coal mining operations" at section 701(28) of SMCRA does not have this exemption. Therefore, consistent with the District Court decision discussed above, Ohio is proposing to delete from its definition the words "but do not include public roadways." The Director finds that the deletion to the State definition does not render the rule less stringent than the Federal definition.

2. Permitting and Design Requirements for Roads

(a) OAC 1501:13-4-05(M)(1)(d) and (e), and OAC-13-4-14(L)(1)(d) and (e). These paragraphs are added to require that each permit application include drawings and specifications as necessary for approval by the Chief of each ford of a perennial or intermittent stream outside the mined-out area by a road that is being used as a temporary route. OAC 1501:13-4-05(M)(1)(e) and OAC 13-4-14(L)(1)(e) are also added to require that each permit application shall include a description of plans to remove and reclaim each road that would not be retained under an approved post-mining land use and shall include the schedule for this removal and reclamation.

The Federal regulations at 30 CFR 780.37(a) (3) and (6) and 784.24(a) (3) and (6) require that permit applications include: (1) drawings and specifications for fords of streams proposed as temporary construction routes, and (2) plans and schedules for the removal and reclamation of each road that is not proposed for retention as part of the approved post-mining land use. The proposed Ohio provisions at OAC 1501:13-4-05(M)(1)(d) and (e) and OAC 1501:13-4-14(L)(1)(d) and (e) are

intended to satisfy these requirements and are no less effective than the counterpart Federal regulations at 30 CFR 780.37(a) (3) and (6) and 784.24(a) (3) and (6).

Ohio has included language in the proposed rules at OAC 1501:13-4-05(M)(1)(d) and OAC 1501:13-4-14(L)(1)(d) that specifically limit the applicability of these provisions to streams "outside the mined-out area." The Federal rules at 30 CFR 780.37(a) and 784.24(a) do not contain this phrase. However, the Federal definition of "road" found at 30 CFR 701.5 includes the phrase "immediate mining area" and OSM's interpretation of this phrase places certain limitations on the scope of Ohio's definition of the phrase "mined-out area."

In the final rule notice approving the Federal definition of "road" (53 FR 45190, 45192-3, November 8, 1988) OSM stated that the term "immediate mining area" refers to the area where coal is being removed from the seam and to other areas that should not be subject to the performance standards for roads because they are subject to frequent surface changes. Many areas in a mining operation contain routes of travel that are moved every few days as the mining advances. These routes have a short life and are not included in the definition of "road" or subject to the road performance standards, but would be subject to the other performance standards applicable to all surface coal mining and reclamation operations. A commenter of the Federal rule was concerned that "immediate mining area" may mean any road within the permit area and, as such, the definition would be self-defeating. OSM responded by stating that the term "immediate mining area" is not intended to encompass the entire permit area.

In administrative record information submitted with these proposed amendments, Ohio asserted that it is not appropriate that plans and specifications be required for stream crossings in the mined-out area, where all drainage is directed to sedimentation ponds and transportation routes are specifically exempted from the requirements for primary and ancillary routes (Administrative Record Number OH-1265). Thus, Ohio's phrase of "mined-out area" also allows in areas of frequent change that the road performance standards would not apply, but that other performance standards would apply.

The Director, therefore, is approving the proposed provisions at OAC 1501:13-4-05(M)(1) (d) and (e) and 1501:13-4-14(L)(1) (d) and (e) so long as the term "mined-out area" is consistent

with OSM's interpretation of "immediate mining area" as discussed above and in the final rule notice cited above.

(b) *OAC 1501:13-4-05(M)(2) and OAC 13-4-14(L)(2)*. Ohio is revising these paragraphs to add design standards in new paragraphs OAC 1501:13-4-05(M)(2)(a) through (M)(2)(i) and OAC 1501:13-4-14(L)(2)(a) through (L)(2)(i) for primary road embankments. Permit applicants could use these standards to design primary road embankments in lieu of performing engineering tests to demonstrate compliance with the 1.3 minimum static safety factor required in OAC 1501:13-10-01(G)(3). In addition and consistent with these changes, OAC 1501:13-10-01(B)(9), which required a minimum static safety factor of 1.3 for all embankments, is being deleted. The new design standards cover preparation of the embankment foundation area, benching of existing steep slopes, characteristics of embankment fill material, horizontal layering of fill to facilitate compaction, steepness of embankment side slopes, minimum embankment top width, and placement of culverts. As part of its administrative record dated January 17, 1992, Ohio provided information with stability analyses intended to justify the proposed primary road embankment design standards.

The proposed provisions are consistent with the Federal regulations at 30 CFR 780.37(c) and 784.24(c) in that the Federal regulations authorize regulatory authorities to establish engineering design standards for primary roads, and that applicants may use those standards in lieu of engineering tests to establish compliance with the minimum static safety factor of 1.3 for all embankments specified in 30 CFR 816/817.151(b). The Director is, therefore, approving the standards in paragraphs OAC 1501:13-4-05(M)(2), (M)(2)(a) through (M)(2)(i) and OAC 1501:13-4-14(L)(2), (L)(2)(a) through (L)(2)(i) to be used in the design of primary road embankments in lieu of engineering tests since they establish compliance with the 1.3 minimum static safety factor required in paragraph (G)(3) of OAC 1501:13-10-01.

3. Performance Standards for Roads

(a) *OAC 1501:13-10-01(B)(1)*. This paragraph is being rewritten to require that primary and secondary roads shall be located, designed, constructed, used, maintained, and reclaimed so as to control and prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as

vegetating or otherwise stabilizing all exposed surfaces. The corresponding Federal rule at 30 CFR 816/817.150(b)(1) is similar. The Federal rule adds three specific methods (watering and using chemicals or other dust suppressants) for controlling the occurrence of such dust to the list of suggested preventative or controlling measures contained in the rule. Ohio has not included in its itemized list of preventative or controlling measures any of these three suggested methods that may be employed directly on roads for control of dust. However, these measures are just examples of the methods that a regulatory authority could use to control erosion, dust, etc., on roads. Therefore, the Director finds that this proposed amendment is no less effective than the Federal regulations at 30 CFR 816/817.150(b)(1).

(b) *OAC 1501:13-10-01(D)(1)*. This paragraph is being rewritten to specify that the Chief's approval of roads located in stream channels shall be in accordance with OAC 1501:13-9-04 paragraphs (A), (B), (E), (F), (J), (K), and (M) concerning protection of the hydrologic system. The current Ohio rule at OAC 1501:13-10-01(D)(1) prohibits the placements of roads in stream channels unless specifically approved by the Chief. OSM informed Ohio that to be no less effective than the Federal regulations at 30 CFR 816.150(d)(1) and 817.150(d)(1), Ohio needs to clarify that the Chief may approve exemptions only if they are in accordance with the Ohio counterparts to the Federally referenced hydrologic balance protection rules. The Director finds that the proposed amendments do make such a clarification and are, therefore, no less effective than the Federal regulations at CFR 816/817.150(d)(1).

(c) *OAC 1501:13-10-01(F) (5) and (6)*. Ohio is rewriting paragraph (F)(5) and adding paragraph (F)(6) to require that reclamation of roads which are not to be retained as part of the post-mining land use shall include scarifying or ripping the road bed and removing or otherwise disposing of road-surfacing materials that interfere with the post-mining land use.

The Federal rules at 30 CFR 816/817.150(f) require that a road which is not to be retained as part of the post-mining land use be reclaimed in accordance with the approved reclamation plan as soon as practicable after it is no longer needed for mining and reclamation operations. Ohio's program included most of the specific provisions of these Federal rules; however, OSM informed Ohio that to be

no less effective than the Federal rules in their entirety, Ohio needs to require that the road reclamation process include (1) the removal or disposal of road-surfacing materials that are incompatible with the post-mining land use and revegetation requirements, and (2) the scarifying or ripping of the roadbed prior to topsoiling and planting.

While the proposed provisions are nearly identical to their Federal counterparts, the language at OAC 1501:13-10-01(F)(6) differs from the Federal language in two ways. The proposed rule requires the removal of road surfacing materials that "interfere" with the post-mining land use, whereas the Federal rule uses the word "incompatible." The proposed Ohio wording is acceptable because the concept of interference does not render the Ohio program to be less effective than the Federal counterpart. Also, the proposed rule does not specifically require, as does the Federal regulation, that roadsurfacing materials that interfere with the post-mining land use and "revegetation requirements" be removed. The lack of the words "revegetation requirements" in the proposed provision does not render the Ohio rule to be less effective than the Federal regulation because Ohio's reference to post-mining land use includes Ohio's revegetation requirements. That is Ohio's revegetation requirements at OAC 1501:13-9-15 are, as are those of the Federal regulations, directly related to specify post-mining land uses. Therefore, if road-surfacing materials in Ohio permits interfere with revegetation requirements, they would also be interfering with the post-mining land use and must be removed or otherwise disposed. The Director finds, therefore, that the proposed rules are no less effective than the Federal rules.

(d) OAC 1501:13-10-01(G)(1). This paragraph is being rewritten to require that the plans and drawings of primary roads be prepared by, or under the direction of an engineer, and then shall be certified by an engineer or by an engineer and surveyor that they meet the requirements of Chapters 1501:13-1 to 1501:13-4 and current, prudent engineering practices and any design standards the Chief may establish. This amendment is substantively identical to and no less effective than the Federal rule at 30 CFR 780.37(b) and 784.24(b). The Director is approving this amendment.

The proposed rule requires that the construction or reconstruction of primary roads be certified in a report of the Chief by a qualified registered

professional engineer or surveyor or both. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

The Federal rule at 30 CFR 816/817.151(a) also requires the same certification.

The Director finds, therefore, that the proposed rule is substantively identical to and no less effective than the Federal requirements at 30 CFR 816/817.151(a).

(e) OAC 1501:13-10-01(G)(3). This paragraph is being added to require that each primary road embankment shall have a minimum static safety factor of 1.3 or be designed in accordance with OAC 1501:13-4-05(M)(2) or 13-4-14(L)(2). The Director, therefore, finds the proposed amendment to be substantively identical to and no less effective than the counterpart Federal regulations at 30 CFR 816/817.151(b).

(f) OAC 1501:13-10-01(G)(4). This paragraph is being rewritten to delete the Chief's discretionary authority to waive the requirement that primary road drainage control systems shall be designed to pass peak runoff safely from a ten-year, six-hour precipitation event. The rule continues to state that the Chief may require that the drainage control system be designed for a larger precipitation event. The corresponding Federal regulations at 30 CFR 816.151(d)(1) and 817.151(d)(1) do not authorize the regulatory authority to waive the design precipitation event standards. With this change, the proposed rule is substantively identical to and no less effective than the Federal standards at 30 CFR 816/817.151(d)(1).

4. Permitting and Design Requirements for Impoundments

(a) OAC 1501:13-4-05(H)(2)(c) and 13-4-14(H)(2)(c). Ohio is revising paragraph (H)(2)(c) in both rules to add design standards in new paragraphs (H)(2)(c)(i) through (H)(2)(c)(vii). Permit applicants could use these standards to design non-MSHA impoundments in lieu of performing engineering tests to demonstrate compliance with the 1.3 minimum static safety factor. The new design standards cover preparation of the embankment foundation area, benching of existing steep slopes, characteristics of embankment fill material, horizontal layering of fill to facilitate compaction, moisture content of fill, maximum steepness of embankment side slopes, and minimum embankment to width. In the administrative record information of its January 17, 1992, submission, Ohio provided information on the design standards which the Chief will apply to non-MSHA impoundments in lieu of

stability analysis to ensure compliance with the minimum static safety factor.

The proposed provisions are consistent with the Federal regulations at 30 CFR 780.25(c)(3) and 784.16(c)(3) in that the Federal regulations authorize regulatory authorities to establish engineering design standards for impoundments not meeting the size or other criteria of 30 CFR 77.216(a), and that applicants may use those standards in lieu of engineering tests to establish compliance with the minimum static safety factor of 1.3 specified in 30 CFR 816/817.49(a)(3)(ii). The Director is, therefore, approving the standards in paragraphs OAC 1501:13-4-05(H)(2)(c) through (H)(2)(c)(vii) and OAC 1501:13-4-14(H)(2)(c) through (H)(2)(c)(vii) to be used in the design of non-MSHA impoundments in lieu of engineering tests since they establish compliance with the 1.3 minimum static safety factor.

(b) OAC 1501:13-9-04(H)(1)(c). This paragraph is being rewritten to require that impoundments meeting the criteria of 30 CFR 77.216(a) or located where failure would be expected to cause loss of life or serious property damage shall have a minimum static safety factor of 1.5 for a normal pool with steady state seepage saturation conditions, and a seismic safety factor of at least 1.2. Impoundments which do not meet the criteria of 30 CFR 77.216(a), except for coal mine waste impounding structures, and which are located where failure would not be expected to cause loss of life or serious property damage shall have a minimum static safety factor of 1.3 or be designed in accordance with OAC 1501:13-4-05(H)(2)(c) or 13-4-14(H)(2)(c). The Ohio regulation is substantively identical to and no less effective than 30 CFR 816/817.49(a)(3).

5. Spillways

(a) OAC 1501:13-9-04(G)(3)(b) (i) through (iii) and (H)(1)(h) (i) through (iii). These paragraphs are being rewritten or added to require that sedimentation ponds and impoundments meeting the size or other criteria of 30 CFR 77.216(a) shall include either a combination of principal and emergency spillways or a single spillway designed and constructed to safely pass a 100-year, 6-hour storm event or a greater event as specified by the Chief. Sedimentation ponds and impoundments not meeting the size or other criteria of 30 CFR 77.216(a) shall include either a combination of principal and emergency spillways or a single spillway designed and constructed to safely pass a 25-year, 6-hour storm event or a greater event as specified by the

Chief. Single spillways must be open channels of nonerodible construction which are designed to carry sustained flows, or may be earth or grass-lined and designed to carry short-term infrequent flows at nonerosive velocities where sustained flows are not expected.

The counterpart Federal rules at 30 CFR 816/817.46(c)(2)(i) and 816/817.49(a)(8) concerning spillway designs for sediment control structures authorize the use of spillway designs which use either a combination of principal and emergency spillways, or a single open-channel spillway configured as specified. The proposed Ohio rule has been rewritten to also authorize the use of single spillway designs. The Federal rules at 30 CFR 816/817.46(c)(2)(i) and 816/817.49(a)(8) concerning single open-channel spillways authorize the use of grass-lined designs for spillways designed to carry short-term infrequent flows at non-erosive velocities where sustained flows are not expected.

The Director finds, therefore, that the proposed rules are substantively identical to and no less effective than the counterpart Federal regulations at 30 CFR 816/817.46(c)(2)(i) and 816/817.49(a)(8).

(b) *OAC 1501:13-9-04(H)(2)(h) and (H)(3)(b)*. These rules which present design precipitation event standards for permanent and temporary impoundments, are proposed to be deleted. As discussed above at Finding 5(a), the design precipitation event standards for impoundments meeting and not meeting the size or other criteria of 30 CFR 77.216(a) are incorporated in the Ohio rules at OAC 1501:13-9-04(H)(1)(h). The Director finds that the proposed deletion of these rules does not render the Ohio program to be less effective than the Federal regulations.

6. Impounding Structures of or for Coal Mine Waste

OAC 1501:13-9-09(C)(2)(b) and (C)(5). Paragraph (C)(2)(b) is being rewritten to require that impounding structures constructed of or intended to impound coal mine waste and meeting the criteria of 30 CFR 77.216(a) shall be able to pass safely the probable maximum precipitation of a 6-hour precipitation event or a greater event as specified by the Chief. The change at paragraph (c)(5) adds that 90 percent of the water shall be removed from the impounding structure within the 10 days following the occurrence of the design precipitation event. Prior to these changes, the Ohio rule at (C)(2)(b) specified a smaller 100-year, 6-hour precipitation event, and the rule at (C)(5) contained no actual drawdown requirements. The Director finds that the

addition to (C)(2)(b) is no less effective than 30 CFR 816/817.84(b)(2) and the change to (C)(5) is substantively identical to and no less effective than the counterpart Federal rules at 30 CFR 816/817.84(f).

7. Planting Arrangements

OAC 1501:13-9-15 (F), (G), and (H). These paragraphs are being rewritten to add a requirement that the Chief shall determine the appropriate planting arrangements to be used for revegetation of areas with post-mining land uses as specified in these paragraphs after consultation with the appropriate agencies. Paragraphs (F), (G), and (H) currently require consultation with and approval by the appropriate specified agency concerning stocking levels and species selection for revegetation. The Director finds, therefore, that with these amendments, paragraphs OAC 1501:13-9-15 (F), (G), and (H) are no less effective than the counterpart Federal regulations at 30 CFR 816/817.116(b)(3)(i).

8. Husbandry Practices for Revegetation

(a) *OAC 1501:13-9-15(I)(2)(c)(i)*. This paragraph is being rewritten to include mowing, harvesting of crops, and crop rotation as agronomic practices on cropland or pasture land which will not be considered augmentative when the practice is an accepted local practice for comparable unmined lands that can be expected to continue as a post-mining practice. In addition, the phrase "and other locally accepted practices" is being deleted from this paragraph consistent with a requirement identified in OSM's approval of Ohio Program Amendment Number 28 on February 21, 1989 (54 FR 7406).

The Federal regulations at 30 CFR 816/817.116(c)(4) authorize the regulatory authority to approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, provided it obtains prior approval from the Director that the practices are normal husbandry practices. Such practices must be expected to continue as part of the post-mining land use or must not reduce the probability of permanent revegetation success if the practice is discontinued after the liability period expires.

The Director has approved Ohio Program Amendments Number 28 (54 FR 7406-7409, February 21, 1989) and Number 29R (55 FR 3219-3223; January 31, 1990) concerning non-augmentative practices. As a consequence of OSM's review of Program Amendment Number 28, the Director made a finding that the

portion of the rule concerning non-augmentative seeding, fertilizing and irrigation which would allow the use of "other locally accepted practices" is inconsistent with the Federal rules at 30 CFR 816/817.116(c)(4) which require that each specific practice be approved through the State program amendment process. In addition, the Director required that Ohio submit a proposed amendment to the rule concerning non-augmentative practices (OAC 1501:13-9-15(F)(12)(a) at the time) to remove the phrase "and other locally accepted practices" or otherwise propose to amend its program to clarify that all normal husbandry practices must be approved by OSM pursuant to 30 CFR 732.17. Since Ohio's proposed language in Program Amendment Number 29R concerning non-augmentative practices still contained the phrase "other locally accepted practices," the Director's findings published on February 21, 1989, still applied.

In the currently proposed amendment Ohio has deleted the words "other locally accepted practices" from the Ohio rules at OAC 1501:13-9-15(I)(2)(c)(i), thereby satisfying the Director's requirement at 30 CFR 935.16(c) to delete those words. In addition, Ohio's proposal to add the practices of mowing, harvesting of crops, and crop rotation as agronomic practices on cropland or pasture land which will not be considered augmentative is approved. These practices would by their very nature have no influence on reclamation success and would not impact the validity of evaluations of revegetation success. The Director finds, therefore, that the proposed rule at OAC 1501:13-9-15(I)(2)(c)(i) is no less effective than the counterpart Federal regulations. Consequently, the required amendment identified at 30 CFR 935.16(c) is satisfied and can be removed, and the related provision at 30 CFR 935.12(c) can be removed.

(b) *OAC 1501:13-15(I)(2)(c)(ii)*. This paragraph is being rewritten to add pasture land to the approved areas for which repair of rills and gullies will not be considered an augmentative practice. The Director finds that the proposed rule to add the provision at OAC 1501:13-9-15(I)(2)(c)(ii) is no less effective than the counterpart Federal regulations at 30 CFR 816/817.116(c)(4) and can be approved.

9. Evaluation Revegetation Success

OAC 1501:13-9-15(I)(3)(c). This paragraph is being rewritten to add the requirement that planted species must meet the minimum production and

ground-cover standards for any two years of the period of extended responsibility, except for the first year, in order for revegetation to be determined to be successful for Phase III bond release.

The Federal regulations at 30 CFR 816/817.116(c)(2) require that, in areas of more than 26.0 inches of average annual precipitation, revegetation success standards for cropland and grazing or pasture land be met during at least two years of the responsibility period. The Federal regulations allow these measurements to be taken any two years of the responsibility period except the first year. Prior to the proposed amendment, the Ohio rule did not require two measurement years nor did it prohibit the use of measurements taken during the first year of the responsibility period. OSM had informed Ohio that to be no less effective than the Federal regulations, Ohio needs to revise its program to include these provisions. The Director finds, therefore, that the proposed rule is substantively identical to and no less effective than the counterpart Federal regulations at 30 CFR 816/817.116(c)(2).

10. Support Facilities

OAC 1501:13-11-02(A). This paragraph is being added to require each applicant for a surface coal mining and reclamation permit to submit a description, plans, and drawings for each support facility to be constructed, used, or maintained within the proposed permit area. The rule also requires that the plans and drawings include a map, appropriate cross-sections, design drawings, and specifications sufficient to demonstrate compliance with paragraph (B) of this rule. The Director finds the proposed rule to be substantively identical to and no less effective than the counterpart Federal regulations at 30 CFR 780.38 and 784.40.

IV. Summary and Disposition of Comments

Public Comments

The public comment period announced in the February 2, 1990, *Federal Register* (55 FR 3604) closed on March 5, 1990. No public comments were received. The scheduled public hearing was not held as no one requested an opportunity to provide testimony. The public comment period was subsequently reopened and announced in the September 6, 1990, *Federal Register* (55 FR 36661), March 6, 1991, *Federal Register* (56 FR 9312), July 12, 1991, *Federal Register* (56 FR 31896), and April 13, 1992, *Federal Register* (57 FR 12777). The comment periods closed on

October 9, 1990, April 5, 1991, August 12, 1991, and May 13, 1992, respectively. No public comments were received and the scheduled public hearings were not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Ohio program.

The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) commented (Administrative Record Number OH-1282) that the design storm that MSHA would require for an impounding structure constructed of coal mine waste can be less than a six-hour probable maximum event for a structure that is small in size and has a low hazard potential. The MSHA comment is directed at the proposed change at OAC 1501:13-9-09(C)(2)(b) which states the design event standard for coal mine waste impoundment meeting the criteria of 30 CFR 77.216(a), but does not state the design event standard for impoundments not meeting the criteria of 30 CFR 77.216(a). In response, the Director notes that the approved Ohio rule at OAC 1501:13-9-09(C)(2)(a) requires coal mine waste impounding structures to be designed and constructed in accordance with paragraph (H) of rule OAC 1501:13-9-04. Paragraph (H)(1)(h)(ii) specifies that impoundments not meeting the criteria of 30 CFR 77.216(a) shall be designed and constructed to safely pass a 25-year, 6-hour precipitation event. This standard is in accordance with those of the commenters. As noted in Finding 6 above, the Director has determined that the proposed rule at OAC 1501:13-9-09(c)(2)(b) is no less effective than the Federal regulations.

The U.S. Department of Agriculture, Soil Conservation Service (SCS) (Administrative Record No. OH-1372) commented that single spillways constructed as earth-or grass-lined can be a maintenance problem because the spillway tends to stay wet for long periods and is difficult to maintain. The SCS comment is directed at the proposed changes at OAC 1501:13-9-04(G)(3)(b)(iii)(b) and (H)(1)(h)(iii)(b) which state that single spillways may be earth-or grass-lined and designed to carry short-term infrequent flows at nonerosive velocities where sustained flows are not expected. As noted in Finding 5 above, the Director has determined that Ohio's authorization of the use of earth- or grass-lined designs for emergency spillways at OAC

1501:13-9-04(G)(3)(b)(iii) and (H)(1)(h)(iii) is substantively identical to and no less effective than the Federal limitations placed on the use of earth- or grass-lined designs.

The U.S. Army Corps of Engineers (Corps) (Administrative Record Number OH-1375) commented that the nonerodible construction of spillways was satisfactory. However, the Corps was concerned with the design and construction of single spillways to safely pass a 100-year 6-hour precipitation. As noted in Finding 5 above, the Director has determined that the precipitation event at OAC 1501:13-9-04(G)(3)(b)(i) is substantively identical to and no less effective than the Federal regulations.

The comments submitted by the Environmental Protection Agency (EPA) are discussed below under "EPA Concurrence."

V. Director's Decision

Based on the findings discussed above, the Director is approving Ohio Program Amendment No. 43 as submitted on January 16, 1990, and revised on August 17, 1990, February 12, 1991, June 24, 1991 and January 21, 1992. As explained in Finding 8 above, this amendment satisfies the requirement at 30 CFR 935.16(c) and the prior finding at 30 CFR 935.12(c) should be deleted (54 FR 7409, February 21, 1989).

The Director is taking this opportunity to correct provisions at 30 CFR 935.12(b) and 935.16(g) which should have been revised in the final rule notice published on December 15, 1989 (54 FR 51397). As explained in Finding 1 of that notice, Ohio satisfied the requirements at 30 CFR 935.16(g), and the corresponding provision at 30 CFR 935.12(b) should be deleted.

The Federal regulations at 30 CFR part 935 codifying decisions concerning the Ohio program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EPA Concurrence

In accordance with 30 CFR 732.17(h)(11)(ii), OSM solicited EPA's concurrence in the approval of Ohio's program. EPA concurred (Administrative Record No. OH-1331) in the State's proposed amendments based on the understanding that Ohio's surface mining regulations will be implemented consistent with applicable Clean Water Act (CWA) requirements. However,

EPA expressed concern that certain situations related to instream treatment could result in conditions that would not assure compliance with applicable State water quality standards as required by the CWA. However, other portions of the Ohio program that were cited by EPA appear to alleviate these concerns.

The Director acknowledges EPA's concerns but notes that neither the cited Ohio regulations nor their Federal counterparts can be construed as superseding, amending or repealing the CWA because it is prohibited by section 702 of SMCRA. Furthermore, the Director is approving Ohio's proposed amendments to the extent that they do not supersede applicable CWA requirements.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal regulations will be met by the State.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of Executive Order 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of section 2(a) and 2(b) of EO 12778. Under SMCRA section 405 and 30 CFR 884 and section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision

allowed under the law is approval, disapproval or conditional approval of State program amendments.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 24, 1992.

Ronald C. Recker,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 935.12 [Removed]

2. Section 935.12 is removed and reserved.

3. In § 935.15, a new paragraph (ddd) is added to read as follows:

§ 935.15 Approval of regulatory program amendments.

(ddd) The following amendment, as submitted to OSM on January 16, 1990, and revised on August 17, 1990, February 12, 1991, June 24, 1991, and January 21, 1992, is approved effective July 27, 1992: Revised Program Amendment Number 43 consists of the following modifications to the Ohio Program.

(1) Revisions to the following rules of Chapter 1501 of the Ohio Administrative Code:

13-1-02(E)(1)(d), (YYYY);
13-4-05(H)(2)(c), (M)(1) (d) and (e) and (M)(2);
13-4-14(H)(2)(c), (L)(1) (d) and (e) and (L)(2);
13-9-04(G)(3)(b)(i) through (G)(3)(b)(iii),
(H)(1)(c), (H)(1)(h)(i) through (H)(1)(h)(iii),
(H)(2)(h) and (H)(3)(b);
13-9-09(C)(2)(b) and (C)(5);
13-9-15(F), (G), (H), (I)(2)(c) (i) and (ii),
(I)(3)(c);
13-10-01(B)(1), (D)(1), (F) (5) and (6), (G)(1),
(G)(3), (G)(4);
13-11-02(A).

(2) Revision of paragraph (G)(2) of Section 1513.01 of the Ohio Revised Code.

§ 935.16 [Removed]

4. In § 935.16 paragraph (c) is removed and reserved.

[FR Doc. 92-17575 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Defense Investigative Service

32 CFR Part 321

[DIS Regulation 28-4]

Access to and Maintenance of DIS Personal Records

AGENCY: Defense Investigative Service, DOD.

ACTION: Final rule.

SUMMARY: On April 27, 1992 (58 FR 15275) the Defense Investigative Service published a proposed rule to 32 CFR part 321 on procedural and exemption. During the thirty day public comment period, no comments were received, therefore, the Defense Investigative Service is adopting the rules governing personal records, which are specific to the agency's activities under the Privacy Act of 1974.

EFFECTIVE DATE: July 27, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Dale Hartig at (202) 475-1062.

SUPPLEMENTARY INFORMATION:

Executive Order 12291. The Director, Administration and Management has determined that this proposed rule is not a major rule. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and does not have a significant adverse effect on competition, employment, investment, productivity, or innovation.

Regulatory Flexibility Act of 1980. The Director, Administration and Management certifies that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) and does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act. The Director, Administration and Management certifies that this rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520).

List of Subjects in 32 CFR part 321

Privacy.

Accordingly, the Defense Investigative Service is amending 32 CFR part 321 as follows.

PART 321—DEFENSE INVESTIGATIVE SERVICE PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR part 321 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a)

2. Section 321.2(c) is revised as follows:

§ 321.2 References.

(c) DIS Regulation 28-4, "Access to and Maintenance of DIS Personal Records".

3. Section 321.4(b) is revised to read as follows:

§ 321.4 Information and procedures for requesting notification.

(b) DIS Records Systems. A list of DIS records systems is available by contacting Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324-1700.

4. Section 321.14 is amended by revising paragraphs (b), (d), (e), (f) and adding paragraphs (c) and (g) as follows:

§ 321.14 Exemptions.

(b) All systems of records maintained by DIS shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12356 and which is required by the Executive Order to be withheld in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain items of information that have been properly classified.

(c) System identifier. V1-01

(1) *System name.* Privacy and Freedom of Information Request Records.

(2) *Exemption.* Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2), (k)(3), (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3); (d); (e)(1); (e)(4)(G), (H) and (I); and (f).

(3) *Authority.* 5 U.S.C. 552a(k)(2), (k)(3), and (k)(5)

(4) *Reasons.* From subsection (c)(3) because it will enable DIS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise);

(i) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise);

(ii) From subsections (d) and (f) because requiring DIS to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DIS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(d) System identifier. V5-01

(1) *System name.* Investigative Files System

(2) *Exemption.* Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2), (k)(3), or (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f).

(3) *Authority.* 5 U.S.C. 552a(k)(2), (k)(3), and (k)(5).

(4) *Reasons.* From subsection (c)(3) because it will enable DIS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not

otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(i) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(ii) From subsections (d) and (f) because requiring DIS to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DIS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(e) System identifier. V5-02

(1) *System name.* Defense Clearance and Investigations Index (DCII).

(2) *Exemption.* Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I), and (f).

(3) *Authority.* 5 U.S.C. 552a(k)(2).

(4) *Reasons.* From subsection (c)(3) because it will enable DIS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(i) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of

investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(ii) From subsections (d) and (f) because requiring DIS to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DIS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(f) System identifier. V5-03

(1) *System name.* Defense Integrated Management System (DIMS).

(2) *Exemption.* Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I), and (f).

(3) *Authority.* 5 U.S.C. 552a(k)(2).

(4) *Reasons.* From subsection (c)(3) because it will enable DIS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(i) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential

informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(ii) From subsections (d) and (f) because requiring DIS to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DIS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(g) System identifier. V8-01

(1) *System name.* Industrial Personnel Security Clearance Files

(2) *Exemption.* Any portion of this system that falls under the provisions of 5 U.S.C. 552a (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f).

(3) *Authority.* 5 U.S.C. 552a(k)(5).

(4) *Reasons.* From subsection (c)(3) because it will enable DIS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(i) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(ii) From subsections (d) and (f) because requiring DIS to grant access to records and agency rules for access and

amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DIS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

Dated: July 17, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-17584 Filed 7-24-92; 8:45 am]

BILLING CODE 3810-01-F

Department of the Army

32 CFR Part 505

[Department of the Army Pamphlet 25-51]

Army Privacy Program

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: On May 20, 1992 (57 FR 21365) the Department of the Army published a proposed rule to amend its system identification numbers in accordance with the Modern Army Recordkeeping System (MARKS). No comments were received, therefore, the Department of the Army is adopting the changes.

EFFECTIVE DATE: July 27, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. William Walker at (703) 697-1276.

SUPPLEMENTARY INFORMATION:

Executive Order 12291. The Director, Administration and Management has determined that this proposed rule is not a major rule. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and does not have a significant adverse effect on competition, employment, investment, productivity, or innovation.

Regulatory Flexibility Act of 1980. The Director, Administration and Management certifies that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) and does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act. The Director, Administration and Management certifies that this rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520).

List of subjects in 32 CFR part 505

Privacy.

Accordingly, the Department of the Army amends 32 CFR part 505 as follows:

1. The authority citation for 32 CFR part 505 is revised to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 505.5 is amended by revising paragraph (d); and paragraphs (e)a.(1); b.(1); c.(1); d.(1); e.(1); f.(1); g.(1); h.(1); i.(1); removing and reserving j.; revising k.(1); l.(1); m.(1); n.(1); o.(1); p.(1); q.(1); r.(1); removing and reserving s.; revising t.(1); u.(1); removing and reserving v.; revising w.(1); x.(1); y.(1); z.(1); aa.(1); redesignating "ab.3.(1)" as "ab.(1)" and revising redesignated ab.(1); redesignating "ac.4.(1)" as "ac.(1)" and revising redesignated ac.(1); revising ad.(1); ae.(1); af.(1); ag.(1); ah.(1); ai.(1); aj.(1); and ak.(1) as follows:

§ 505.5 Exemptions.

(d) *Procedures.* When a system manager seeks an exemption for a system of records, the following information will be furnished to the Director of Information Systems for Command, Control, Communications and Computers (SAIS-PDD), Washington, DC 20310-0107: applicable system notice, exemptions sought, and justification. After appropriate staffing and approval by the Secretary of the Army, a proposed rule will be published in the *Federal Register*, followed by a final rule 30 days later. No exemption may be invoked until these steps have been completed.

(e) *Exempt Army records.* The following records are exempt from certain parts of the Privacy Act:

a. System identification: A0020-1aSAIG.

(1) System name: Inspector General Investigative Files.

b. System identification: A0020-1bSAIG.

(1) System name: Inspector General Action Request/Complaint Files.

c. System identification: A0025-55SAIS.

(1) System name: Request for Information Files.

d. System identification: A0027-1DAJA.

(1) System name: General Legal Files.

e. System identification: A0027-10aDAJA.

(1) System name: Prosecutorial Files.

f. System identification: A0027-10bDAJA.

(1) System name: Courts-Martial Files.

g. System identification: A0190-5DAMO.

(1) System name: Vehicle Registration System (VRS).

h. System identification: A0190-9DAMO.

(1) System name: Absentee Case Files.

i. System identification: A0190-14DAMO.

(1) System name: Registration and Permit Files.

j. [Reserved]

k. System identification: A0190-30DAMO.

(1) System name: Military Police Investigator Certification Files.

l. System identification: A0190-40DAMO.

(1) System name: Serious Incident Reporting Files.

m. System identification: A0190-45DAMO.

(1) System name: Offense Reporting System (ORS).

n. System identification: A0190-47DAMO.

(1) System name: Correctional Reporting System (CRS).

o. System identification: A0195-2USACIDC.

(1) System name: Criminal Investigation and Crime Laboratory Files.

p. System identification: A0195-2aUSACIDC.

(1) System name: Source Register.

q. System identification:

A0195b6USACIDC.

(1) System name: Criminal Investigation Accreditation and Polygraph Examiner Evaluation Files.

r. System identification: A0210-7DAMO.

(1) System name: Expelled or Barred Person Files.

s. [Reserved]

t. System identification: A0340JDMSS.

(1) System name: HQDA Correspondence and Control/Central File System.

u. System identification: A0340-21SAIS.

(1) System name: Privacy Case Files.

v. [Reserved]

w. System identification: A0350-37TRADOC.

(1) System name: Skill Qualification Test (SQT).

x. System identification: A0351-12DAPE.

(1) System name: Applicants/Students, USMA Prep School.

y. System identification: A0351-17aTAPC-USMA.

(1) System name: U.S. Military Academy Candidate Files.

z. System identification: A0351-17bTAPC-USMA.

(1) System name: U.S. Military Academy Personnel Cadet Records.

aa. System identification: A0380-13DAMO.

(1) System name: Local Criminal Intelligence Files.

ab. System identification: A0380-67DAMI.

(1) System name: Personnel Security Clearance Information Files.

ac. System identification: A0381-45aDAMI.

(1) System name: USAINSCOM Investigative Files System.

ad. System identification: A0381-45bDAMI.

(1) System name: Department of the Army Operational Support Activities File.

ae. System identification: A0381-45cDAMI.

(1) System name: Counterintelligence Operations Files.

af. System identification: A0381-100aDAMI.

(1) System name: Intelligence Collection Files.

ag. System identification: A0381-100bDAMI.

(1) System name: Technical Surveillance Index.

ah. System identification: A0601-141DASG.

(1) System name: Army Medical Procurement Applicant Files.

ai. System identification: A0601-210aUSAREC.

(1) System name: Enlisted Eligibility Files.

aj. System identification: A0601-222USMEPCOM.

(1) System name: ASVAB Student Test Scoring and Reporting System.

ak. System identification: A0608-18DASG.

(1) System name: Family Advocacy Case Management.

Dated: July 10, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-16876 Filed 7-24-92; 8:45 am]

BILLING CODE 3810-01-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 920446-2156]

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS changes the quota for wreckfish in the snapper-grouper fishery off the South Atlantic states in accordance with the framework procedure of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP), as amended, and makes additional changes to the regulations that implement the FMP. This final rule (1) sets an annual quota for wreckfish of two million pounds (907,194 kg), whole weight; (2) removes the quarterly apportionment of the wreckfish quota; (3) removes the procedures for closing the wreckfish sector of the snapper-grouper fishery

when the quota is reached; and (4) clarifies the possession limitations on wreckfish, greater amberjack, and mutton snapper during their spawning seasons. The intended effect is to protect the wreckfish resource and simplify and clarify the regulations.

EFFECTIVE DATE: July 27, 1992.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813-893-3161.

SUPPLEMENTARY INFORMATION: Snapper-grouper species, including wreckfish, are managed under the FMP prepared by the South Atlantic Fishery Management Council (Council) and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

In accordance with the FMP and its implementing regulations, the Council recommended, and NMFS published, a proposed rule to (1) change the annual wreckfish quota to 2 million pounds (907,194 kg), whole weight, commencing with the fishing year beginning April 16, 1992; (2) remove the quarterly apportionment of the wreckfish quota; and (3) remove the procedures for closing the wreckfish sector of the fishery when the quota is reached, or is projected to be reached. NMFS also proposed a change to clarify that the harvest or possession limitation on wreckfish during the spawning-season closure applies aboard a fishing vessel. The background and rationales for these changes were included in the proposed rule (57 FR 19874, May 8, 1992) and are not repeated here.

No comments were received on the proposed rule. Accordingly, the proposed rule is adopted as final.

NMFS has determined that clarification is needed regarding the possession limits for greater amberjack and mutton snapper during their respective spawning seasons. The current regulations at 50 CFR 646.21 (h) and (i) limit the possession of these species during their spawning seasons to the bag limits, whether or not the vessel from which they are taken has a vessel permit. In these paragraphs, making the bag limits applicable when a vessel does not have a permit is redundant, since the bag limits apply to a vessel without a permit throughout the year; and the limit that applies when a vessel does have a permit is not clearly stated. Accordingly, this rule revises 50 CFR 646.21 (h) and (i) and the corresponding prohibition at 50 CFR 646.7(x).

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant

Administrator), has determined that this final rule is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable Federal law.

The Assistant Administrator determined that this final rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This final rule does not change any of the factors considered in the environmental impact statement prepared for the FMP or in the environmental assessments prepared for its amendments; accordingly, this action is categorically excluded from the requirement to prepare an environmental assessment, as specified in NOAA Administrative Order 216-6.

In the final rules implementing the FMP and its amendments, NMFS concluded that, to the maximum extent practicable, the FMP and amendments are consistent with the approved coastal zone management programs of all the affected states. Since this final rule does not directly affect the coastal zone in a manner not already fully evaluated in the FMP and amendments and their consistency determinations, a new consistency determination under the Coastal Zone Management Act is not required.

This final rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

Because the substantive changes in this final rule regarding management of the wreckfish resource are established for the fishing year that commenced April 16, 1992, the Assistant Administrator, under the provisions of section 553(d)(3) of the APA, finds, for good cause, namely, to provide effective conservation and management of the wreckfish resource, that it is impracticable and contrary to the public interest to delay for 30 days the effective date of this rule.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 21, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 646.7, paragraphs (w) and (x) are revised to read as follows:

§ 646.7 Prohibitions.

(w) During the wreckfish spawning-season closure, harvest, possess, off-load, sell, purchase, trade, or barter wreckfish in or from the EEZ; or attempt any of the foregoing, as specified in § 646.21(g).

(x) During the greater amberjack and mutton snapper spawning seasons, exceed the possession limits for those species, as specified in § 646.21 (h) and (i).

3. In § 646.21, the first sentence of paragraph (g) and paragraphs (h) and (i) are revised to read as follows:

§ 646.21 Harvest limitations.

(g) *Wreckfish spawning-season closure.* During the period January 15 through April 15, each year, no person may harvest or possess on board a fishing vessel wreckfish in or from the EEZ; off-load wreckfish from the EEZ; sell, purchase, trade, or barter wreckfish in or from the EEZ; or attempt any of the foregoing.

(h) *Greater amberjack spawning-season limit.* During April, each year, south of Cape Canaveral, Florida (28°35.1' N. latitude—due east of the NASA Vehicle Assembly Building), the possession of greater amberjack in or from the EEZ on board a vessel that has an annual vessel permit specified in § 646.4(a)(1) is limited to three per person during a single day, regardless of the number of trips or the duration of a trip.

(i) *Mutton snapper spawning-season limit.* During May and June, each year, the possession of mutton snapper in or from the EEZ on board a vessel that has an annual vessel permit specified in § 646.4(a)(1) is limited to ten per person during a single day, regardless of the number of trips or the duration of a trip.

4. Section 646.24 is revised to read as follows:

§ 646.24 Wreckfish quota.

Persons fishing for wreckfish are subject to a quota of 2 million pounds (907,194 kg), whole weight, each fishing year.

[FR Doc. 92-17673 Filed 7-24-92; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 920412-2112]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure and inseason adjustment.

SUMMARY: NMFS announces the closure of the recreational salmon fishery in the exclusive economic zone (EEZ) from Humbug Mountain, Oregon, to Horse Mountain, California, at midnight, July 20, 1992, to ensure that the chinook salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined that the recreational fishery quota of 3,500 chinook salmon for the subarea will be reached by midnight, July 20, 1992. The closure is necessary to conform to the preseason announcement of 1992 management measures. This action is intended to ensure conservation of chinook salmon.

NMFS also announces that when the recreational fishery in the EEZ from Humbug Mountain, Oregon, to Horse Mountain, California, opens as scheduled for the period September 1-7, 1992, fishing will be allowed every day of the week instead of Monday through Wednesday only as initially planned. This action is intended to provide consistency between Federal and state regulations and increase fishing opportunity for sport fishermen without substantially or adversely affecting the implementation of the annual management measures.

DATES: Effective at 2400 hours local time, July 20, 1992. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.23. Comments will be accepted through August 10, 1992.

ADDRESSES: Comments may be mailed to Roland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or Gary Matlock, Operations Director, Southwest Region, National Marine Fisheries Service,

NOAA, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802-4213. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT:

William L. Robinson at (206) 526-6140, or Rodney R. McInnis at (310) 980-4030.

SUPPLEMENTARY INFORMATION:

Regulations governing the ocean salmon fisheries specify at 50 CFR 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by notice issued under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

In its emergency interim rule and preseason notice of 1992 management measures (57 FR 19388, May 6, 1992), NMFS announced that the 1992 recreational fishery for all salmon species in the subarea from Humbug Mountain, Oregon, to Horse Mountain, California, would open July 6 and continue through the earlier of September 7 or the attainment of a subarea impact quota of 3,500 chinook salmon, and that the fishery would continue or reopen without the chinook quota beginning September 1.

Based on the best available information on July 16, the recreational fishery in the subarea from Humbug Mountain to Horse Mountain is projected to reach the 3,500 chinook salmon subarea impact quota by midnight, July 20, 1992. Therefore, the fishery in this subarea is closed to recreational fishing for all salmon species effective 2400 hours local time, July 20, 1992, through 2400 hours local time, August 31, 1992.

The recreational fishery in the subarea from Humbug Mountain to Horse Mountain will reopen as announced in the emergency interim rule and notice of 1992 fishery management measures (57 FR 19388, May 6, 1992) at 0001 hours local time, September 1 through 2400 hours local time, September 7, 1992. The emergency interim rule and notice of 1992 management measures announced that this fishery will be open Monday through Wednesday only. The State of California has implemented State regulations which will open this fishery for the entire 7-day period. To provide

consistency between Federal and State regulations, the restriction limiting fishing to Monday through Wednesday only is rescinded, and this fishery will be open for 7 days from September 1 through September 7. The State of Oregon will be implementing regulations consistent with the State of California and this Federal action. This action will increase fishing opportunity for sport fishermen with no impact on this year's escapement of Klamath River fall chinook salmon, the primary salmon stock of management concern in this area. This is because the 1992 spawners, which the quotas are designed to protect, will have left the ocean by September 1 and the remaining harvest is on the following year's spawners. Modification of the recreational fishing days per calendar week is authorized by regulations at § 661.21(b)(1)(iii).

In accordance with the revised inseason notice procedures of 50 CFR

661.23, actual notice to fishermen of this action was given prior to 2400 hours local time, July 20, 1992, by telephone hotline number (206) 526-6667 or (800) 662-9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 KHz.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Oregon Department of Fish and Wildlife, and the California Department of Fish and Game regarding the recreational fishery between Humbug Mountain, Oregon, and Horse Mountain, California. The States of Oregon and California will manage the recreational fishery in State waters adjacent to this area of the EEZ in accordance with this Federal action. This notice does not apply to other fisheries that may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has

determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted through August 10, 1992.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 21, 1992.

David S. Crestin,

Acting Director Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-17674 Filed 7-24-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 57, No. 144

Monday, July 27, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206-AE84

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule to add Wayne County, West Virginia, as an area of application to the Franklin, Ohio, Nonappropriated Fund (NAF) wage area. The Department of Veterans Affairs Medical Center in Huntington, West Virginia, previously had been misidentified as being located in Cabell County, West Virginia, for wage setting purposes, although its actual location is within adjacent Wayne County, West Virginia. The intent of this action is to correct the discrepancy in our regulations.

DATES: Comments must be received on or before August 26, 1992.

ADDRESSES: Send or deliver written comments to Barbara L. Fiss, Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 6H31, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Brenda Roberts, (202) 606-2848.

SUPPLEMENTARY INFORMATION: For many years, the Department of Veterans Affairs Medical Center in Huntington, West Virginia, has been misidentified as being located in Cabell County, West Virginia. It came to the attention of the Department of Defense, the lead agency, that the Medical Center is really in Wayne County, West Virginia, about 1 mile across the Cabell County line. While Cabell County is an area of application to the Franklin, Ohio, wage area, Wayne County is not yet defined to a wage area. The seven NAF employees at the Medical Center are

being paid from the Franklin, Ohio, wage schedule.

Because of the relative isolation of Wayne and Cabell Counties, proximity and transportation facilities appear to be the most relevant criteria in determining the appropriate NAF wage area to which Wayne County, West Virginia, should be applied. Geographically, Franklin, Ohio, is the closest wage area to the Medical Center (167 miles to Newark Air Force Base). State Highway 23 is a major road that connects Franklin, Ohio, and Wayne/Cabell Counties, West Virginia. In addition, Wayne County is contiguous to Cabell County, part of the Franklin, Ohio, wage area, and there are no other counties in the vicinity of Wayne County that are defined to a wage area. The closest alternate wage area is the Greene/Montgomery, Ohio, wage area (Dayton, Ohio—Wright-Patterson Air Force Base), which is several miles farther to the west (176 miles to Wright-Patterson). There do not appear to be any direct major roads from Wayne County to the Greene/Montgomery wage area.

The Federal Prevailing Rate Advisory Committee reviewed this issue and recommended, by consensus, the addition of Wayne County to the Franklin, Ohio, area of application.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Douglas A. Brook,

Acting Director.

Accordingly, OPM proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92-502.

2. Appendix D to subpart B is amended by revising the West Virginia wage area listing under Franklin, Ohio, to read as follows:

Appendix D to Subpart B of Part 532— Nonappropriated Fund Wage and Survey Areas

Ohio

Franklin

Survey Area

Area of Application. Survey area plus:

West Virginia:

Cabell
Raleigh
Wayne

[FR Doc. 92-17570 Filed 7-24-92; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-91-017-B]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service (General Specifications) by incorporating provisions to specify the sampling, testing, and record keeping requirements relating to an expanded drug residue monitoring program in USDA-approved dairy plants. The proposal was initiated at the request of the National Association of State Departments of Agriculture (NASDA) and was developed in cooperation with NASDA.

the Food and Drug Administration (FDA), dairy trade associations and producer groups.

DATES: Comments should be filed by August 26, 1992.

ADDRESSES: Comments should be sent to: Director, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2968-S, P.O. Box 96456, Washington, DC 20090-6456. They will be made available for public inspection at the Dairy Division in room 2750-S during regular business hours.

Comments concerning the information collection requirements contained in this action should also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Attn: Desk officer for the Agricultural Marketing Service.

FOR FURTHER INFORMATION CONTACT:

Michael I. Hankin, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/ Dairy Division, room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-7473.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as a "non-major" rule under the criteria contained therein.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The proposed rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Administrator, Agricultural Marketing Service, has determined that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities because participation in the USDA-approved plant program is voluntary and the amendments would not increase the costs to those utilizing the program.

In accordance with the Paperwork Reduction Act of 1980, the information collection requirements that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). The information collection requirements that currently appear in the sections to be amended have been previously approved by OMB under OMB Control

No. 0581-0110. This proposed amendment would increase the frequency that USDA-approved dairy plants conduct tests for drug residue in loads of producer milk. There are approximately 800 approved dairy plants. The current frequency level of four tests in six months will be increased to provide that each load of producer milk delivered to a USDA-approved facility be tested for beta lactams. Records of drug residue tests and records of notifications to State regulatory agencies concerning positive test results and disposition of positive-testing milk are to be retained for a period of twelve months. In addition, current requirements do not stipulate the minimum retention time for somatic cell test results. The proposal specifies that somatic cell count records be retained for a period of 12 months.

Comments concerning the information collection requirements contained in this action should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Attn: Desk Officer for the Agricultural Marketing Service.

An occurrence of drug residue in milk or milk products may be a health concern to consumers. USDA and FDA have therefore developed a model drug residue monitoring program for manufacturing grade and for Grade A milk.

In order to establish an expanded drug residue monitoring program concerning milk and milk products originating in USDA-approved dairy plants, USDA is proposing the following changes to the general specifications for dairy plants in part 58, subpart B, of the grading and inspection standards concerning dairy products.

1. Provide That All Milk Received in USDA-Approved Plants be Sampled and Tested for the Presence of Beta Lactam Drugs

Currently, the General Specifications provide for the testing of milk for antibiotics at a minimum frequency of four times in six months. The proposed amendment specifies that all milk which is received for processing in USDA-approved plants be sampled and tested for beta lactam drugs.

2. Provide That the Testing of Milk Be Completed Prior to Processing

Currently, the General Specifications do not contain requirements for the timely completion and reporting of the antibiotic tests. The proposed amendment specifies that testing be completed prior to processing the load of milk.

3. Specify Plant Responsibilities in the Expanded Drug Residue Monitoring Program

The proposal requires USDA-approved plants to notify the appropriate State regulatory agency of (a) each occurrence of a load sample testing positive for drug residue; (b) the identity of any producer whose milk causes a load sample to test positive for drug residue; and (c) the intended and final disposition of the load of milk represented in a sample testing positive for drug residue. Milk testing positive for beta lactams is to be disposed of in a manner that removes it from the human and animal food chain, unless reconditioned under FDA guidelines.

4. Make Other Revisions and Editorial Changes in the General Specifications to Reflect the Expansion of the Drug Residue Monitoring Program

The proposal would require dairy plants to: (a) Test the milk of new and transfer producers for the presence of drug residues prior to acceptance of the milk at the plant; (b) retain drug residue test results for a minimum of 12 months; (c) include in a producer's records the results of drug residue tests for the preceding 12 months; and (d) instruct plants to provide fieldman assistance to farmers regarding drug residue issues.

5. Provide Revisions to Update and Clarify Somatic Cell Testing Requirements

Proposed changes include correcting the action level at which the Wisconsin Mastitis Test must be confirmed.

USDA grade standards are voluntary standards that are developed to facilitate the orderly marketing process. Dairy plants are free to choose whether or not to use the standards. When manufactured or processed dairy products are graded, the USDA regulations governing the grading of dairy products are used. Included in these regulations are the requirements that all graded dairy products be produced in a USDA-approved plant and that charges be assessed for grading and inspection services provided by USDA.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 58, subpart B, be amended as follows:

Subpart B—[Amended]

1. The authority citation for 7 CFR part 58, subpart B, continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

2. Section 58.132 is revised to read as follows:

§ 58.132 Basis for classification.

The quality classification of raw milk for manufacturing purposes from each producer shall be based on an organoleptic examination for appearance and odor, a drug residue test, and quality control tests for sediment content, bacterial estimate and somatic cell count. All milk received from producers shall not exceed the Food and Drug Administration's established limits for pesticide, herbicide and drug residues. Producers shall be promptly notified of any shipment or portion thereof of their milk that fails to meet any of these quality specifications.

3. In § 58.133 paragraphs (b)(1), (b)(2), (b)(6), and (c) are revised to read as follows:

§ 58.133 Methods for quality and wholesomeness determination.

(b) *Somatic cell count.* (1) A laboratory examination to determine the level of somatic cells shall be made at least four times in each six-month period at irregular intervals on milk received from each patron.

(2) A confirmatory test for somatic cells shall be done when a herd sample exceeds either of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1).

(ii) Wisconsin Mastitis Test—WMT value of 18 mm.

(6) An additional sample shall be taken after a lapse of three days but within 21 days of the notice required in paragraph (b)(5)(ii) of this section. If this sample also exceeds 1,000,000 per ml., subsequent milkings shall not be accepted for market unit satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the appropriate State regulatory agency when an additional sample of herd milk is tested and found satisfactory. The producer may be assigned a full reinstatement status when three out of four consecutive somatic cell count tests do not exceed 1,000,000 per ml. The samples shall be taken at a rate of not

more than two per week on separate days within a three-week period.

(c) *Drug residue level.* (1) USDA-approved plants shall not accept for processing any milk testing positive for drug residue. All milk received at USDA-approved plants shall be sampled and tested, prior to processing, for beta lactam drug residue. When directed by the regulatory agency, additional testing for other drug residues shall be performed. Samples shall be analyzed for beta lactams and other drug residues by methods evaluated by the Association of Official Analytical Chemists (AOAC) and accepted by the Food and Drug Administration (FDA) as effective in determining compliance with "safe levels" or established tolerances. "Safe levels" and tolerances for particular drugs are established by the FDA. Other test methods evaluated by the Virginia Polytechnic Institute and State University, or by other institutions using equivalent evaluation procedures, and determined to demonstrate accurate compliance results, may be employed on a temporary basis until they are evaluated by the AOAC and accepted or rejected by the FDA.

(2) Individual producer milk samples for beta lactam drug residue testing shall be obtained from each milk shipment as follows:

(i) *Milk in farm bulk tanks.* A sample shall be taken at each farm and shall include milk from each farm bulk tank.

(ii) *Milk in cans.* A sample shall be formed separately at the receiving plant for each can milk producer included in a delivery, and shall be representative of all milk received from the producer.

(3) Load milk samples for beta lactam drug residue testing shall be obtained from each milk shipment as follows:

(i) *Milk in bulk milk pickup tankers.* A sample shall be taken from the bulk milk pickup after its arrival at the plant and prior to further commingling.

(ii) *Milk in cans.* A sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle.

(4) *Follow-up to positive-testing samples.*

(i) When a load sample tests positive for drug residue, the appropriate State regulatory agency shall be notified immediately of the positive test result and of the intended disposition of the shipment of milk containing the drug residue.

(ii) Each individual producer sample represented in the positive-testing load sample shall be singly tested to determine the producer of the milk sample testing positive for drug residue.

Identification of the producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the appropriate agency.

(iii) Milk shipment from the producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue.

4. Sections 58.136 through 58.140 are revised to read as follows:

§ 58.136 Rejected milk.

A plant shall reject specific milk from a producer if the milk fails to meet the requirements for appearance and odor (§ 58.133(a)), if it is classified No. 4 for sediment content (§ 58.134), or if it tests positive for drug residue (§ 58.133(c)).

§ 58.137 Excluded milk.

A plant shall not accept milk from a producer if:

(a) The milk has been in a probational (No. 3) sediment content classification for more than ten calendar days (§ 58.134);

(b) The milk has been classified "Undergrade" for bacterial estimate for more than four successive weeks (§ 58.135);

(c) Three of the last five milk samples have exceeded the maximum somatic cell count level of 1,000,000 per ml. (§ 58.133(b)(6)); or

(d) The producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test (§ 58.133(c)(4)).

§ 58.138 Quality testing of milk from new producers.

A quality examination and tests shall be made on the first shipment of milk from a producer shipping milk to a plant for the first time or resuming shipment to a plant after a period of non-shipment. The milk shall meet the requirements for acceptable milk, somatic cell count and drug residue level (§§ 58.133, 58.134 and 58.135). The buyer shall also confirm that the producer's milk is currently not excluded from the market (§ 58.137). Thereafter, the milk shall be tested in accordance with the provisions in §§ 58.133, 58.134 and 58.135.

§ 58.139 Record of tests.

Accurate records listing the results of quality and drug residue tests for each producer shall be kept on file at the plant. Additionally, the plant shall

obtain the quality and drug residue test records (§ 58.148(a), (e) and (g)) for any producer transferring milk shipment from another plant. These records shall be available for examination by the inspector.

§ 58.140 Field service.

A representative of the plant shall arrange to promptly visit the farm of each producer whose milk tests positive for drug residue, exceeds the maximum somatic cell count level, or does not meet the requirements for acceptable milk. The purpose of the visit shall be to inspect the milking equipment and facilities and to offer assistance to improve the quality of the producer's milk and eliminate any potential causes of drug residues. A representative of the plant should routinely visit each producer as often as necessary to assist and encourage the production of high quality milk.

5. In § 58.148, paragraphs (e), (f) and (g) are added to read as follows:

§ 58.148 Plant records.

(e) Load and individual drug residue test results. Retain for 12 months.

(f) Notifications to appropriate State regulatory agencies of positive drug residue tests and intended and final dispositions of milk testing positive for drug residue. Retain for 12 months.

(g) Somatic cell count test results on raw milk from each producer. Retain for 12 months.

Dated: July 20, 1992.

Kenneth C. Clayton,
Acting Administrator.

[FR Doc. 92-17539 Filed 7-24-92; 8:45 am]

BILLING CODE 3410-02-M

RESOLUTION TRUST CORPORATION

12 CFR Part 1625

Procedures Applicable to RTC Investigations

AGENCY: Resolution Trust Corporation.

ACTION: Proposed rule and request for comments.

SUMMARY: The Resolution Trust Corporation (RTC) hereby seeks comments on proposed regulations setting forth procedures applicable to the conduct of RTC investigations which involve the exercise of powers, including the power to issue subpoenas and subpoena duces tecum, contained in section 8(n) of the Federal Deposit Insurance Act, as amended. The RTC is authorized to exercise such

investigatory powers in carrying out its statutory obligations to resolve failed savings associations.

In the absence of its own investigative regulations, the RTC has been relying on the investigative regulations of the Federal Deposit Insurance Corporation. The proposed regulations will provide the RTC with its own set of investigative regulations and will thus provide the public with specific guidance regarding applicable procedures with respect to the RTC's conduct of investigations in which it exercises the investigative powers, including subpoena powers, contained in section 8(n).

DATES: Comments must be submitted on or before August 26, 1992.

ADDRESSES: Written comments regarding the proposed rule should be addressed to John M. Buckley, Jr., Secretary, Resolution Trust Corporation, 801 17th Street, NW., Washington, DC 20434-0001.

Comments may be hand delivered to Room 314 on business days between 9 a.m. and 5 p.m. Comments may also be inspected in the Public Reading Room, 801 17th Street, NW., between 9 a.m. and 5 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Suzanne Rigby, Professional Liability Section, telephone 202/736-0314; Gregg H.S. Golden, Litigation Section, telephone 202/736-3042.

SUPPLEMENTARY INFORMATION:

I. Background

Section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) added a new section 21A to the Federal Home Loan Bank Act (FHLBA) (12 U.S.C. 1441a), authorizing the RTC to exercise various powers with respect to failed savings associations. Among other things, the RTC is required to minimize the losses resulting from the resolution of failed savings associations, to maximize the recoveries realized from the disposition of such institutions or their assets, and to make efficient use of funds obtained by the RTC. In carrying out that mandate, the RTC must determine whether the RTC has valid claims against former directors, officers, or others who rendered services to or otherwise dealt with the institution, whether there are assets that would justify the RTC's pursuing such claims, whether the RTC should seek to avoid transfers of assets or the incurrence of obligations or seek an attachment of assets, and whether the pursuit of such claims would otherwise be consistent with the RTC's statutory obligations and sound public policy.

In section 21A(b)(4) of the FHLBA (12 U.S.C. 1441a(b)(4)), Congress granted certain powers to the RTC by reference to the powers of the Federal Deposit Insurance Corporation (FDIC) under sections 11, 12, and 13 of the Federal Deposit Insurance Act, as amended (FDIA) (12 U.S.C. 1821, 1822, and 1823). Section 11(d)(2)(I) of the FDIA provides that the FDIC may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority or duty with respect to an insured depository institution, exercise any power established under section 8(n) of the FDIA (12 U.S.C. 1818(n)). Section 8(n), in turn, enumerates various investigatory powers, including the power to issue subpoenas and subpoenas duces tecum. Section 13(d)(3)(A) of the FDIA (12 U.S.C. 1823(d)(3)(A)) gives the FDIC (and, by virtue of 12 U.S.C. 1441a(b)(4), the RTC) the same powers in its corporate capacity as it has as receiver under section 11, which includes the exercise of the investigatory powers of section 8(n).

The proposed rule spells out the procedures by which the RTC will conduct investigations in which the section 8(n) powers are used. Although the RTC begins its inquiries into the affairs of a failed savings association as soon as the institution is closed and the RTC is appointed receiver or conservator, the use of the section 8(n) investigatory powers commences with the issuance of the Order of Investigation. To date, in the absence of its own regulations governing investigations in which the section 8(n) powers are used, the RTC, as authorized by section 21A(a)(7) of the FHLBA (12 U.S.C. 1441a(a)(7)), has been following the FDIC's procedures set forth in 12 CFR part 308, subpart K, as amended.

II. The Proposed Regulations

Section 1625.1 ("Purpose and Scope") specifies the RTC's investigative authority pursuant to sections 8(n), 11(d)(2)(I), and 13(d)(3)(A) of the FDIA (12 U.S.C. 1818(n), 1821(d)(2)(I), and 1823(d)(3)(A)), as made applicable to the RTC pursuant to section 21A(b)(4) of the FHLBA (12 U.S.C. 1441a(b)(4)). These provisions govern the RTC's investigative authority in its capacity as conservator or receiver for failed savings associations, as well as in its corporate capacity as acquirer of the assets of such associations.

Section 1625.2 ("Definitions") makes clear that the term "Chief Executive Officer," as used in the proposed regulations, includes the Chief Executive Officer's delegates. The section also

makes clear that the designated representative shall be an attorney within the RTC.

Section 1625.3 ("Orders of Investigation") indicates that the Order of Investigation shall indicate generally the principal purpose of the investigation.

Section 1625.4 ("Powers of Chief Executive Officer") specifies that the Chief Executive Officer may exercise any authority or fulfill any duty of the RTC under these rules.

Section 1625.5 ("Powers of designated representative") spells out the various powers of the designated representative, including the power to issue subpoenas and subpoenas duces tecum and to apply, upon approval by the RTC, to an appropriate court for the enforcement of any such subpoena. This subsection also makes clear that the designated representative may rely on persons outside the RTC to assist in the conduct of any investigation, but that such persons shall not have the power to issue subpoenas.

Section 1625.6 ("Investigations nonpublic") provides that investigations shall be nonpublic and that the disclosure of documents or other information obtained in an investigation shall be governed by the confidentiality provisions generally accord with RTC practice to date in instances in which subpoena recipients have requested confidential treatment of documents produced pursuant to a subpoena.

Section 1625.7 ("Rights of witnesses") provides that any person compelled to appear and testify in an investigation may be represented by counsel and further specifies the requirements and role of counsel in any such investigation.

Section 1625.8 ("Obstruction of proceedings") discusses the RTC's authority to exclude an attorney or other person from any investigation where the RTC finds that such person has engaged in contemptuous, contumacious or similarly objectionable conduct.

Section 1625.9 ("Subpoenas") specifies the manner of service of an investigative subpoena and the procedures applicable to motions to quash or limit such subpoenas. The procedures essentially codify existing RTC practice.

Section 1625.10 ("Transcripts") provides that a person may inspect a transcript, if any, of his or her testimony and obtain a copy thereof, on written request, subject to the RTC's denying such request for good cause.

Regulatory Flexibility Act Statement

Pursuant to section 605(b) of the Regulatory Flexibility Act, the RTC hereby certifies that this proposal is not expected to have a significant economic

impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 12 CFR Part 1625

Administrative practice and procedure, Investigations, Savings associations.

For the reasons set forth in the preamble, the Resolution Trust Corporation proposes to add part 1625 to title 12, chapter XVI, of the Code of Federal Regulations, to read as follows:

PART 1625—PROCEDURES APPLICABLE TO RTC INVESTIGATIONS

Sec.

- 1625.1 Purpose and scope.
- 1625.2 Definitions.
- 1625.3 Orders of investigation.
- 1625.4 Powers of Chief Executive Officer.
- 1625.5 Powers of designated representative.
- 1625.6 Investigations nonpublic.
- 1625.7 Rights of witnesses.
- 1625.8 Obstruction of proceedings.
- 1625.9 Subpoenas.
- 1625.10 Transcripts.

Authority: 12 U.S.C. 1441a (b)(3), (b)(4), (b)(11), 1818(n), 1821(d)(2)(I), 1823(d)(3)(A).

§ 1625.1 Purpose and scope.

This part prescribes procedures applicable to the conduct of investigations by the Resolution Trust Corporation (RTC) under section 21A(b)(4) of the Federal Home Loan Bank Act, as amended (FHLBA) (12 U.S.C. 1441a(b)(4)), and sections 8(n), 11(d)(2)(I), and 13(d)(3)(A) of the Federal Deposit Insurance Act, as amended (FDIA) (12 U.S.C. 1818(n), 1821(d)(2)(I), and 1823(d)(3)(A)).

§ 1625.2 Definitions.

As used in this part: (a) *Chief Executive Officer* means the Chief Executive Officer of the RTC or delegates.

(b) *Designated representative* means the attorney or attorneys within the RTC Division of Legal Services named in an Order of Investigation to exercise the powers granted by section 8(n) of the FDIA.

(c) *Investigation* means, for purposes of this part only, the exercise of the powers granted by section 8(n) of the FDIA to the RTC, through sections 11(d)(2)(I) and 13(d)(3)(A) of the FDIA and section 21A(b)(4) of the FHLBA, including among other things administering oaths and affirmations, taking and preserving testimony, requiring and production of books, papers, correspondence, memoranda, financial records, and all other records and documents in whatever form, the issuance of subpoenas and subpoenas

duces tecum, and all other activities related to the exercise of such powers.

(d) *Order of Investigation* means the document issued by the RTC, authorizing an investigation as defined herein.

(e) *Person* means an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint venture, or other entity or organization.

§ 1625.3 Orders of investigation.

An Order of Investigation shall indicate generally the principal purpose or purposes of the investigation and shall identify the designated representatives, as defined in § 1625.2. Such purposes may include, but are not limited to, determining whether the RTC has valid claims against former directors, officers, or others who rendered services to or otherwise dealt with the institution, whether there are assets that would justify the RTC's pursuit of such claims consistent with its statutory obligation to minimize losses, whether the RTC should seek to avoid transfers of assets or the incurrence of obligations or seek an attachment of assets, and whether the pursuit of such claims would otherwise be consistent with the RTC's statutory obligations and sound public policy.

§ 1625.4 Powers of Chief Executive Officer.

The Chief Executive Officer may exercise any authority or fulfill any duty of the RTC under this part.

§ 1625.5 Powers of designated representative.

(a) The designated representative shall have all of the powers granted to a designated representative under section 8(n) of the FDIA or any successor provision, including among other things the powers to administer oaths and affirmations, to take and preserve testimony under oath, to issue subpoenas and subpoenas duces tecum, and to apply, upon approval by the RTC, for their enforcement to any of the courts specified in that section for such purposes.

(b) The designated representative may, in his or her discretion, appoint or revoke the appointment of counsel or other persons from within or without the RTC to assist in the conduct of the investigation, provided, however, that such appointee shall not have the power to issue subpoenas or subpoenas duces tecum.

§ 1625.6 Investigations nonpublic.

(a) Unless otherwise ordered by the RTC, investigations shall be nonpublic. Information and documents obtained by

the RTC in the course of such investigations and for which a claim of confidentiality has been asserted shall be treated in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), where applicable, and paragraphs (b) through (f) of this section.

(b) The respondent may designate as confidential any document provided in response to an RTC subpoena that discloses trade secrets or other confidential commercial or financial information. The respondent shall plainly stamp each page of any such document "CONFIDENTIAL" in a manner that does not interfere with the document's legibility. On each page stamped in accordance with this paragraph, the respondent shall mark with brackets information designated as confidential, unless the entire page is designated as confidential.

(c) Except as provided in paragraph (d) of this section, documents designated as confidential by the respondent shall not be disclosed outside the RTC without ten days' advance notice to the respondent.

(d) Paragraph (c) of this section shall not apply to:

(1) Disclosure to any outside counsel or other contractor of the RTC solely for purposes of performing RTC assignments, and subject to the recipient's obligation pursuant to 12 CFR 1606.11(b) and (c), and as otherwise required by law, to maintain information received from the RTC in confidence;

(2) Disclosure in response to any request from the chairman or ranking minority member of a committee or subcommittee of Congress acting pursuant to committee business, or from any agency of the United States, but the respondent will be given ten days' advance notice of such disclosure or such other prior notice as can reasonably be given in the circumstances;

(3) Disclosure of any document, or any portion of a document, marked "CONFIDENTIAL" if, at any time, the RTC determines such document or portion of a document does not contain trade secrets or other confidential commercial or financial information. The RTC shall provide the respondent ten days' notice of such determination and may thereafter disclose such document or portion thereof;

(4) Disclosure of information which:

(i) Is in the public domain;

(ii) Was in the possession of the RTC prior to having been provided by the respondent or which is also given to the RTC by another person lawfully in possession of the information; or

(iii) Is information over which the RTC may exercise proprietary rights under applicable law;

(5) Disclosure in the course of interviewing or examining any witness in an RTC investigation, but the witness will be advised that the document has been designated confidential and will not be allowed to retain any copy of the document;

(6) Disclosure in response to a judicial or administrative subpoena. If documents designated confidential are subpoenaed, the respondent will be given ten days' notice, or as much notice as can reasonably be given under the circumstances, before the documents are provided, except that no notice will be given in the case of grand jury subpoenas; and

(7)(i) Disclosure to: (A) The Office of Thrift Supervision (OTS) pursuant to the Agreement Regarding Confidential Information dated April 29, 1991, among the FDIC, RTC, and OTS; or

(B) The FDIC pursuant to the Statement Of Policy And Procedures Concerning The Sharing Of Confidential Information Between The FDIC And The RTC, dated January 1, 1992; or

(C) Any other federal or state agency pursuant to a written confidentiality agreement between the RTC and such agency.

(ii) Copies of documents referred to in § 1625.6(d)(7)(i)(A) and (B) are available at the RTC Reading Room, 801 17th Street, NW., Washington, DC 20434-0001.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, disclosure by the RTC in the course of any judicial or administrative proceeding shall be governed by the rules and procedures of the court or administrative body conducting the proceeding.

(f) Nothing contained in this section shall be construed to limit the RTC's internal use of information or documents obtained in the course of an investigation, such use to be determined solely by the RTC.

(g) Nothing contained in this section shall be construed as authority to withhold information or documents if disclosure by the RTC is otherwise required by law, or to permit disclosure if disclosure is otherwise prohibited by law.

(h) Nothing contained in this section shall be construed to make the provisions of 12 U.S.C. 3401-3422 applicable to the RTC.

§ 1625.7 Rights of witnesses.

(a) Any person compelled or requested to furnish testimony, documents, or other information in the

course of an investigation shall, on request, be shown the Order of Investigation. Copies of such Order may be furnished to such persons for their retention in the discretion of the RTC.

(b) Any person compelled or requested to appear and testify in the course of an investigation may be represented by an attorney.

(1) Such attorney shall be a member in good standing of the bar of the highest court of any state, Commonwealth, possession, territory, or the District of Columbia, who has not been suspended or disbarred from practice by the bar of any such political entity or before the RTC or any other federal agency or instrumentality, and has not been excluded from the same investigation as provided in this part. The designated representative may require counsel to state on the record that he or she is qualified to represent the witness in accordance with this paragraph.

(i) Such attorney may be present and may advise the witness before, during, and after such testimony, may briefly question the witness on the record at the conclusion of such testimony solely for the purpose of clarifying the witness's testimony, and may make summary notes during such testimony solely for the use and benefit of the witness.

(ii) If the witness refuses to answer a question, then counsel may briefly state on the record whether counsel has advised the witness not to answer the question and the legal grounds for such refusal. Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or that the witness is privileged to refuse to answer a question or to produce other evidence, the witness or counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the ground therefore. The witness and his counsel shall not otherwise object to or refuse to answer any question, and they shall not otherwise interrupt the oral examination.

(iii) Counsel for a witness may not, for any purpose or to any extent not allowed by paragraphs (b)(1)(i) and (ii) of this section, interrupt the examination of the witness by making any objections or statements on the record.

(2)(i) In any case where an attorney or law firm represents more than one witness in an investigation, and in any case where there is a perceived or actual conflict of interest arising out of an attorney's or law firm's representation of a witness and another person, the designated representative may require counsel to state, in writing

under penalty of perjury or on the record of the witness's testimony, that:

(A) Counsel has personally and fully discussed the possibility of conflicts of interest with each such witness or other person;

(B) Each such witness or other person has advised the counsel that there is no existing or anticipated material conflict between its interests and those of others represented by the same attorney or law firm; and

(C) Each such witness or other person waives any right to assert any known conflicts of interest or to assert any nonmaterial conflicts during the course of the proceeding.

(ii) The RTC may take corrective measures at any stage of an investigation to cure a conflict of interest in representation, including disqualification of the attorney or law firm for the duration of the investigation.

(c) All witnesses shall be sequestered. Unless otherwise permitted in the discretion of the designated representative, all persons shall be excluded from the room in which a witness's testimony is given, except for the witness, the witness's counsel, the persons by whom the testimony is to be taken, and the stenographer recording such testimony.

§ 1625.8 Obstruction of proceedings.

(a) The RTC may, for good cause, exclude an attorney from any investigation in which the RTC finds that the attorney has engaged in dilatory, obstructionist, egregious, contemptuous, or contumacious conduct, or has otherwise violated any provision of this part. After due notice to the attorney, the RTC may take such action as the circumstances warrant based upon a written record evidencing the conduct of the attorney in that investigation or such other or additional written or oral presentation as the RTC may permit or require.

(b) The designated representative shall report to the RTC any instances where any person other than an attorney has engaged in dilatory, obstructionist, egregious, contemptuous, or contumacious conduct, or has otherwise violated any provision of this part, and the RTC may take such action as the circumstances warrant.

§ 1625.9 Subpoenas.

(a) *Service.* Service of a subpoena in connection with an investigation shall be made in the following manner:

(1) *Service upon a natural person.* Service of a subpoena upon a natural person may be made by handing it to such person, by leaving it at such person's office with the person in charge

thereof, or, if there is no one in charge, by leaving it in a conspicuous place therein, by leaving it at such person's residence with some person of suitable age and discretion, by sending it by registered or certified mail or by delivery service to the person's last known address, or by any other method reasonably calculated to give actual notice.

(2) *Service upon other persons.* When the person to be served is not a natural person, service of the subpoena may be made by handing the subpoena to a registered agent for service, or to any director, officer, or agent in charge of any office of such person, by sending it to any such representative by registered or certified mail or by a delivery service to the person's last known address, or by any other method reasonably calculated to give actual notice.

(b) *Testimony of entity.* When the witness is not a natural person, the subpoena may describe with reasonable particularity the matters on which the witness is to testify. In that event, the entity so named shall designate one or more directors, officers, managing agents, or other persons with knowledge of such matters, and may for each such person designate the matters on which the person will testify. The subpoena shall advise the entity of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the entity. This paragraph does not preclude the issuance of subpoenas for individuals by any other procedure authorized in this part.

(c) *Motions to quash.* (1) Any application to limit or quash a subpoena shall be filed within ten days after service of the subpoena or, if the return date is less than ten days after service, prior to the return date. Such application shall be filed with the designated representative, who shall refer the application to the RTC for decision. The application shall be filed only by the person to whom the subpoena is directed or such person's counsel and shall set forth all factual and legal objections to the subpoena, including all assertions of privilege. The RTC may deny the application, quash or limit the subpoena, or condition the granting of the application on such terms as the RTC determines to be just, reasonable, and proper.

(2) Each application shall be accompanied by a signed statement representing that counsel for the applicant has conferred with counsel for the RTC in a good faith effort to resolve by agreement the issues raised by the application and has been unable to reach such agreement. If some of the

issues in controversy have been resolved by agreement, the statement shall specify the issues resolved and those remaining unresolved.

(3) The timely filing of an application to quash or limit a subpoena shall stay the time permitted for compliance with the portion challenged, if the application is denied in whole or in part, the ruling will specify a new return date.

(d) *Attendance of witnesses.* Subpoenas issued in connection with an investigation may require the attendance and/or testimony of witnesses from an state, territory, or other place subject to the jurisdiction of the United States, and the production of documentary or other tangible evidence at any designated place where the investigation is being or is to be conducted. Foreign nationals are subject to such subpoenas if service is made upon an agent located within a place subject to the jurisdiction of the United States.

(e) *Within fees and mileage.* Witnesses shall be paid the same fees for attendance and mileage that are paid to witnesses in the United States district courts. Failure to tender such fees shall not render any subpoena invalid or constitute any grounds for refusal to comply with any such subpoena. Fees need not be tendered at the time a subpoena is served.

§ 1625.10 Transcripts.

(a) Transcripts of testimony, if any, or other records in an investigation shall be prepared solely by an official reporter or by any other person or means authorized by the designated representative.

(b) A person who has given testimony in an investigation is entitled to inspect the transcript, if any, of such person's own testimony, upon request.

(c) A person who has submitted documents or given testimony in an investigation may procure a copy of his or her own documents or the transcript, if any, of his or her own testimony upon payment of the cost thereof; provided, that a person seeking a transcript of his or her own testimony must file a written request with the RTC stating the reason for such request, and the RTC may for good cause deny such request.

By Order of the Chief Executive Officer of the Resolution Trust Corporation.

Dated at Washington, DC, this 9th day of July, 1992.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 92-16545 Filed 17-24-92; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960-AB86

Supplemental Security Income for the Aged, Blind, and Disabled; Indian Judgment Funds and Per Capita Distributions

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations reflect the provisions of Public Law 97-458, enacted January 12, 1983, Public Law 98-64, enacted August 2, 1983, and Public Law 100-241, enacted February 3, 1988. Public Law 97-458 provides that Indian judgment funds held in trust by the Secretary of the Interior or distributed per capita pursuant to a plan prepared by the Secretary of the Interior and not disapproved by a joint resolution of the Congress are excluded from income and resources under the supplemental security income (SSI) program. Public Law 98-64 provides that all funds held in trust by the Secretary of the Interior for an Indian tribe and distributed per capita to a member of that tribe are excluded from income and resources under the SSI program. Pursuant to Public Law 100-241, none of the following, received from a Native Corporation, is counted as income or resources in determining SSI eligibility or payment amount of an individual Alaska Native or a descendant of an Alaska Native: Cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per year; stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock); a partnership interest; land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and interest in a settlement trust. The effects of these proposed regulations are, in certain cases, to provide additional exclusions from income and resources permitting payment of SSI benefits.

DATES: Your comments will be considered if we receive them no later than September 25, 1992.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21235, or delivered to the

Office of Regulations, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8470.

SUPPLEMENTARY INFORMATION: Public Law 97-458 was enacted January 12, 1983. Section 4 of this legislation provides that certain Indian judgment funds held in trust by the Secretary of the Interior or distributed per capita pursuant to a plan prepared by the Secretary of the Interior and not disapproved by a joint resolution of the Congress are excluded from income and resources under the SSI program. Indian judgment funds include interest and investment income accrued while the funds are held in trust. The exclusion extends to initial purchases made with Indian judgment funds. The exclusion does not apply to the proceeds from sales or conversions of initial purchases or to subsequent purchases made with funds derived from sales or conversions of originally excluded purchases, because Congress sought to protect only the distributions made by the Secretary of the Interior.

Section 4 of Public Law 97-458 also excludes from resources any interests of Indians in trust or restricted Indian lands. Our current regulations address only those lands that such individuals may possess. These proposed regulations now also exclude from resources nonpossessory interests in such lands.

Public Law 98-64 was enacted August 2, 1983. This legislation excludes all funds held in trust by the Secretary of the Interior for an Indian tribe and distributed on a per capita basis from income and resources for SSI purposes.

The Social Security Administration (SSA) sought advice from the Department of the Interior on the issue of whether Alaska Native Regional and Village Corporation (ANRVC) dividends not excluded under the Alaska Native Claims Settlement Act (ANCSA) could be excluded under Public Law 98-64. SSA issued interim instructions directing that ANRVC dividend distributions paid on or after August 2, 1983, whether or not excluded under ANCSA, would be excluded for SSI purposes pending resolution of the issue.

The Department of the Interior has since advised SSA that funds held by ANRVCs are not "funds held in trust by the Secretary of the Interior" within the purview of Public Law 98-64. We therefore concluded that these ANRVC dividend distributions could not qualify for exclusion for SSI purposes under that law. However, a new law, Public Law 100-241, was enacted on February 3, 1988. Under this law, none of the following, received from a Native Corporation, is considered income or resources of an individual Alaska Native or a descendant of an Alaska Native: cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per year (the exclusions are applied each year to the amount received in such year); stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock); a partnership interest; land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and an interest in a settlement trust.

Public Law 100-241 specifically provides that cash received from a Native Corporation (including cash dividends on stock received from a Native Corporation), to the extent that it does not, in the aggregate, exceed \$2,000 per individual per year, shall not be considered or taken into account as an asset or resource. Although this statutory provision does not explicitly mention "income," the legislative history clearly shows that such cash should not be considered a resource or "otherwise utilized in determining eligibility." H.R. Rep. No. 31, 100th Cong., exclusion of the distributions from income as well as resources, to the extent that they do not, in the aggregate, exceed \$2,000 per individual per year in determining eligibility and payment amount. To exclude a portion of the distributions only from resources would result in benefit reductions or ineligibility in months in which the distributions are received and would be contrary to congressional intent. Therefore, we have changed the income provisions of the appendix to Subpart K to reflect the exclusion.

In accordance with Public Law 100-241, we exclude ANRVC cash (including cash dividends on stock received from a Native Corporation) to the extent that this ANRVC cash does not, in the aggregate, exceed \$2,000 per individual per year. With respect to resources, we apply the exclusion to each calendar year without regard to the prior year, so

that retained cash not exceeding \$2,000 which an individual received from a Native Corporation in a prior year will not be counted in a subsequent year. This interpretation is consistent with the policy of the Aid to Families with Dependent Children program. (Any retained cash exceeding \$2,000 per year will be counted toward the SSI resource limit.)

The appendix to subpart K lists the types of income that are excluded under the SSI program by Federal laws other than the Social Security Act and explains how exclusions provided by other Federal statutes apply to income deemed from a sponsor to an alien. We propose to amend the appendix to subpart K, IV. Native Americans, on the basis of the legislation discussed above by revising paragraph (a), deleting paragraph (b)(4), redesignating paragraphs (b)(5) through (b)(13) as (b)(4) through (b)(12), and adding new paragraphs (g) and (h). In addition, paragraphs (g) and (h) will provide that the exclusion applies to the sponsor's income only if the alien lives with the sponsor, because the statute authorizing the exclusions applies only to benefits to which the household or member of the household would be eligible.

Similarly, we propose to amend Subpart L of the regulations, which deals with resources and exclusion of resources under the SSI program, to reflect the above legislation. Specifically, we propose to amend § 416.1234 regarding exclusion of Indian lands and § 416.1236, which encompasses resource exclusions provided by other statutes.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291, because the program and administrative impact is negligible, i.e., less than \$1 million and/or 30 workyears. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations, if promulgated, will not have a significant impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act of 1980

These regulations impose no

additional reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance: Program No. 93.807—Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative Practice and Procedure, Aged, Alcoholism, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income, Travel and transportation expenses, Vocational rehabilitation.

Dated: December 30, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: March 3, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93-66, 87 Stat. 154; sec. 2639 of Pub. L. 98-369, 98 Stat. 1144.

2. In the appendix following subpart K of part 416, under the heading IV. Native Americans, paragraph (a) is revised; paragraph (b)(4) and the Note following it are removed; paragraph (b)(5) through (b)(13) are redesignated (b)(4) through (b)(12) respectively; and new paragraphs (g) and (h) are added to read as follows:

Appendix to Subpart K of Part 416—List of Types of Income Excluded Under the SSI Program as Provided by Federal Laws Other Than the Social Security Act

IV. Native Americans

(a) Distributions received by an individual Alaska Native or descendant of an Alaska Native from an Alaska Native Regional and Village Corporation pursuant to the Alaska Native Claims Settlement Act, as follows: cash, including cash dividends on stock received from a Native Corporation, to the extent that it does not, in the aggregate, exceed \$2,000 per individual each year; stock, including stock issued or distributed by a Native Corporation as a dividend or distribution on stock; a partnership interest; land or an interest in land, including land or an interest in land received from a Native Corporation as a dividend or distribution on stock; and an interest in a settlement trust. This exclusion is pursuant to section 15 of the Alaska Native Claims Settlement Act

Amendments of 1987, Public Law 100-241, 43 U.S.C. 1626(c), effective February 3, 1988.

(g) Indian judgment funds that are held in trust by the Secretary of the Interior or distributed per capita pursuant to a plan prepared by the Secretary of the Interior and not disapproved by a joint resolution of the Congress under Public Law 93-134 as amended by Public Law 97-458, 25 U.S.C. 1407. Indian judgment funds include interest and investment income accrued while such funds are so held in trust. This exclusion extends to initial purchases made with Indian judgment funds. This exclusion does not apply to sales or conversions of initial purchases or to subsequent purchases.

Note—This exclusion applies to the income of sponsors of aliens only if the alien lives in the sponsor's household.

(h) All funds held in trust by the Secretary of the Interior for an Indian tribe and distributed per capita to a member of that tribe are excluded from income under Public Law 98-64 (25 U.S.C. 117b). Funds held by Alaska Native Regional and Village Corporations (ANRVC) are not held in trust by the Secretary of the Interior and therefore ANRVC dividend distributions are not excluded from countable income under this exclusion. For ANRVC dividend distributions, see paragraph IV.(a) of this Appendix.

Note—This exclusion applies to the income of sponsors of aliens only if the alien lives in the sponsor's household.

3. The authority citation for subpart L of part 416 continues to read as follows.

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93-66, 87 Stat. 154.

4. Section 416.1234 is revised to read as follows:

§ 416.1234 Exclusion of Indian lands.

In determining the resources of an individual (and spouse, if any) who is of Indian descent from a federally recognized Indian tribe, we will exclude any interest of the individual (or spouse, if any) in land which is held in trust by the United States for an individual Indian or tribe, or which is held by an individual Indian or tribe and which can only be sold, transferred, or otherwise disposed of with the approval of other individuals, his or her tribe, or an agency of the Federal Government.

5. In § 416.1236, paragraphs (a)(3) and (a)(10) are revised and paragraph (a)(12) is added to read as follows:

§ 416.1236 Exclusions from resources; provided by other statutes.

(a) * * *

(3) Indian judgment funds held in trust by the Secretary of the Interior or distributed per capita pursuant to a plan prepared by the Secretary of the Interior and not disapproved by a joint resolution of the Congress under Public Law 93-134, as amended by Public Law 97-458, 25 U.S.C. 1407. Indian judgment funds include interest and investment income accrued while the funds are so held in trust. This exclusion extends to initial purchases made with Indian judgment funds. This exclusion will not apply to proceeds from sales or conversions of initial purchases or to subsequent purchases.

(10) Distributions received by an individual Alaska Native or descendant of an Alaska Native from an Alaska Native Regional and Village Corporation pursuant to the Alaska Native Claims Settlement Act, as follows: Cash, including cash dividends on stock received from a Native Corporation, is disregarded to the extent that it does not, in the aggregate, exceed \$2,000 per individual each year (the \$2,000 limit is applied separately each year, and cash distributions up to \$2,000 which an individual received in a prior year and retained into subsequent years will not be counted as resources in those years); stock, including stock issued or distributed by a Native Corporation as a dividend or distribution on stock; a partnership interest; land or an interest in land, including land or an interest in land received from a Native Corporation as a dividend or distribution on stock; and an interest in a settlement trust. This exclusion is pursuant to the exclusion under section 15 of the Alaska Native Claims Settlement Act Amendments of 1987, Public Law 100-241, 43 U.S.C. 1626(c), effective February 3, 1988.

(12) All funds held in trust by the Secretary of the Interior for an Indian tribe and distributed per capita to a member of that tribe under Public Law 98-64. Funds held by Alaska Native Regional and Village Corporations (ANRVC) are not held in trust by the Secretary of the Interior and therefore ANRVC dividend distributions are not excluded from resources under this exclusion. For treatment of ANRVC dividend distributions, see paragraph IV.(a)(10) of this appendix.

[FR Doc. 92-17583 Filed 7-24-92; 8:45 am]
BILLING CODE 4190-25-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 9

[Notice No. 745; Ref: Notice No. 742]

RIN 1512-AA31

Wine Labeling Amendments (88F-221P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the comment period for a notice of proposed rulemaking (NPRM), published in the *Federal Register* on June 19, 1992 [57 FR 27401], concerning wine labeling amendments. ATF has received a request to extend the comment period in order to provide sufficient time for all interested parties to respond to the numerous wine labeling amendments in the NPRM.

DATES: Written comments must be received by August 21, 1992.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221; ATTN: Notice No. 745.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927-8230.

SUPPLEMENTARY INFORMATION: Background

On June 19, 1992, ATF published Notice No. 742 in the *Federal Register* (57 FR 27401), proposing to amend wine labeling regulations in 27 CFR part 4 to:

- (1) Broaden the use of the "Estate bottled" designation,
- (2) Allow the use of a harvest year designation for fruit, berry and agricultural wines,
- (3) Expand the use of a viticultural area designation,
- (4) Allow the use of multicounty or multistate appellations of origin for other than grape wine,
- (5) Allow the use of the designation "other than standard" on a wine label,
- (6) Allow the use of a vineyard, orchard, farm or ranch name on a wine label,
- (7) Allow the use of a brand name with a varietal (grape type) name,
- (8) Allow more than three grape varieties on a wine label, and

(9) Address the use of a geographic brand name which has a viticultural area significance.

The comment period for Notice No. 742 was scheduled to close on July 20, 1992. Prior to the close of the comment period ATF received a request to extend the comment period 90 days. The extension was requested by the Wine Institute, a trade association which represents 465 California winery members.

The Wine Institute stated that it needed at least 90 days additional time for their members to adequately review the numerous proposed wine labeling regulation revisions. The request for an extension of the comment period expressed particular concern for proposed revisions of the "Estate bottled" designation.

After considering the Wine Institute's request, ATF finds that a 30 day extension of the comment period is warranted and is, therefore, extending the comment period until August 21, 1992.

Drafting Information

The author of this document is James A. Hunt, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Consumer Protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and Wine.

27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

This notice is issued under the authority in 27 U.S.C. 205.

Dated: July 17, 1992.

Daniel R. Black,

Acting Director.

[FR Doc. 92-17627 Filed 7-24-92; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Regulatory Program; Revision of Administrative Rule

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period for Revised Program Amendment Number 55 to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to adopt provisions similar to the Federal counterpart regulations which provide for reclamation agreements between Ohio and coal mine operators who are in danger of bond forfeiture.

This notice sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on August 11, 1992. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on August 6, 1992. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on August 3, 1992.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Richard J. Seibel, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232, Telephone: (614) 866-0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H-3, Columbus, Ohio 43224, Telephone: (614) 265-6675.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Seibel, Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 *Federal Register* (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated December 11, 1991 (Administrative Record No. OH-1612), Ohio submitted proposed Program Amendment Number 55. The substantive changes proposed by Ohio in this amendment concerned delinquent reclamation, reclamation agreements and conditions under which bond forfeiture may be avoided, and terminating the rights of the permittee to reclaim.

OSM announced receipt of proposed Program Amendment Number 55 in the December 31, 1991, *Federal Register* (56 FR 67559), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on January 30, 1992. The public hearing scheduled for January 27, 1992, was not held because no one requested an opportunity to testify.

By letter dated March 3, 1992 (Ohio Administrative Record No. OH-1659), OSM provided Ohio with its questions and comments about the December 11, 1991, amendment submission. By letter dated April 1, 1992 (Ohio Administrative Record No. OH-1673), Ohio responded and requested clarification of OSM's March 3, 1992, comments. OSM and Ohio discussed those comments on April 8, 1992 (Ohio Administrative Record No. OH-1676), and on May 7, 1992 (Ohio Administrative Record No. OH-1696).

By letter dated June 15, 1992 (Ohio Administrative No. OH-1719), Ohio submitted Revised Program Amendment Number 55. This new amendment submission contains further revisions to section 1501:13-7-06 of the Ohio Administrative Code (OAC) concerning reclamation agreements between Ohio and coal mine operators who are in danger of bond forfeiture. The amendment proposes numerous changes to paragraph notations and

nonsubstantive wording changes to clarify the rule. The substantive changes proposed by Ohio in the revised amendment are discussed briefly below:

(1) Bond Forfeiture Criteria

Ohio is revising OAC section 1501:13-7-06 by adding paragraph (A)(4) to provide the Chief of the Ohio Department of Natural Resources, Division of Reclamation (the Chief) shall forfeit the permittee's bond whenever the permittee defaults on the conditions under which Ohio accepted the bond.

(2) Showing Cause of Why the Chief Should Not Forfeit the Permittee's Bond

Ohio is revising OAC section 1501:13-7-06 paragraph (B) to provide that, before the Chief forfeits the permittee's performance bond because of abandonment of the coal mining and reclamation operation or because of the permittee's inability to comply with a notice of violation issued for failure to complete any phase of reclamation, the Chief shall order the permittee to show cause why the Chief should not deem the operation abandoned or why the permittee has the ability to comply with the requirements of chapter 1513. of the Ohio Revised Code.

(3) Bond Forfeiture Procedures

Ohio is revising OAC section 1501:13-7-06 paragraphs (C) and (C)(1) to provide that, when the performance bond is to be forfeited, the Chief shall issue a bond forfeiture order to the permittee which identifies the forfeiture area within the permit and the forfeiture amount.

Ohio is adding new paragraphs (C)(2) (a) through (c) to OAC section 1501:13-7-06 to provide the bond forfeiture orders may include the terms of a reclamation agreement entered into between the Chief and the permittee to avoid bond forfeiture. Such an agreement would include a timetable for the permittee's performance of reclamation and abatement of all violations so as to meet the conditions of the permit and the reclamation plan. The Chief would rescind the forfeiture order upon the permittee's satisfactory performance under the reclamation agreement. The Chief would immediately forfeit the performance bond if the permittee fails to enter into a reclamation agreement within twenty days of the issuance of the bond forfeiture order or fails to comply with any of the terms or conditions of the reclamation agreement.

Ohio is revising OAC 1501:13-7-06 paragraph (C)(4) to provide that, in the event that the permittee does not enter into a reclamation agreement or fails to

comply with the terms of a reclamation agreement as provided for under proposed paragraph (C)(2), the Chief's bond forfeiture order shall inform the permittee that the performance bond filed with Ohio is now property of the State or subject to collection by the State.

(4) Reclamation by a Surety

Ohio is revising OAC section 1501.13-7-06 paragraph (E) to provide that each surety must inform the Chief, within sixty days of notification of the permittee's failure to elect to enter into a reclamation agreement or the permittee's failure to comply with the terms of a reclamation agreement, of the surety's intent to complete reclamation or to pay the full amount of its liability under the surety bond. Ohio shall terminate the rights of the surety to perform reclamation if the surety fails to so notify the Chief within sixty days.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at location's other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m. on August 3, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following

those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "ADDRESSES." A written summary of each public meeting will be made a part of the Administrative Record.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of Executive Order 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. DOI has determined that, to the extent allowed by law, the regulation meets the applicable standards of section 2(a) and 2(b) of Executive Order 12778. Under SMCRA Section 405 and 30 CFR part 884 and section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval or conditional approval of State program amendments.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 19, 1992.

Tim Dieringer,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92-17016 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85 and 86

[AMS-FRL-4156-8]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines

In the matter of Particulate Emission Regulations for 1993 Model Year Buses, Particulate Emission Regulations for 1994 and Later Model Year Urban Buses, Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses, Test Procedures for Urban Buses, and Oxides of Nitrogen Emission Regulations for 1998 and Later Model Year Heavy-duty Engines.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of comment period and public workshop.

SUMMARY: This notice announces an upcoming public workshop and the reopening of the comment period for EPA's proposed urban bus and heavy-duty engine (HDE) regulations that were published on September 24, 1991 (56 FR 48350). It describes two additional options under consideration for the proposed urban bus retrofit/rebuild program. This notice also explains a change under consideration in the useful life requirements for the proposed 1994 and later model year urban bus particulate matter (PM) standard, and the proposed 1998 and later model year HDE oxides of nitrogen (NOx) standard.

DATES: EPA will hold a public workshop on the issues discussed in this notice on August 6, 1992. The workshop will start at 9:30 a.m. and will continue throughout the day as long as necessary to complete testimony. Written comments will be accepted until September 8, 1992.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A-91-28 at the address listed below.

The public workshop will be at the National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105.

Materials relevant to this notice are contained in Public Docket A-91-28. This docket is located in Room M-1500, Waterside Mall (Ground Floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Dockets may be inspected from 8 a.m. until 12 noon, and from 1:30 p.m. until 3 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT:

Philip N. Carlson, Regulation Development and Support Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668-4270. Persons who wish to receive free of charge a copy of the regulatory text under consideration for the items contained in today's notice should call the above mentioned contact person. The regulatory text under consideration is also available in the public docket referenced above (Appendix A of "Supplementary Information—EPA Proposal for an Urban Bus Retrofit/Rebuild Program").

SUPPLEMENTARY INFORMATION:

I. Introduction

On September 24, 1991, EPA published a Notice of Proposed Rulemaking (NPRM) (56 FR 48350) proposing regulations for a number of bus, urban bus and HDE programs required by the 1990 amendments to the Clean Air Act. Among the regulations proposed in the NPRM were regulations for a proposed retrofit/rebuild program for urban buses. Section 219(d) of the Clean Air Act requires that EPA develop regulations governing emissions from 1993 and earlier model year (MY) urban bus engines that are rebuilt or replaced after January 1, 1995. EPA has discretion under the statute to set an emission standard or an emission technology requirement for the affected engines. The retrofit/rebuild program is to apply in Metropolitan Statistical Areas (MSAs) and Consolidated Metropolitan Statistical Areas (CMSAs) with 1980 populations of 750,000 or greater.

In the September 1991 NPRM, EPA proposed two separate options for the urban bus retrofit/rebuild program. Under the first option, bus operators would have to meet, at the time of rebuild, a PM standard of 0.05–0.10 grams per brake horsepower-hour (g/bhp-hr). Under the second option, bus operators would have to meet, at the time of rebuild, a PM standard of 0.25–0.30 g/bhp-hr.

EPA received a wide variety of comments on the September 1991

NPRM, most of which basically supported one or the other of the two proposed standards. Most comments against the more stringent standard of 0.05–0.10 g/bhp-hr raised concerns over the cost, durability, and availability of particulate trap systems that would likely be used to meet the standard.

In response to the comments received on the September 1991 NPRM, and in an attempt to develop a more flexible, market-based program, EPA is considering an urban bus retrofit/rebuild program which would allow bus operators to choose between two options that were not proposed in the September 1991 NPRM. As noted above, this notice describes those two options EPA is now considering for the retrofit/rebuild program.

Option 1 is a performance based standard which would require that rebuilt or replacement engines meet a specified PM emission standard or percentage emission reduction as long as certified equipment able to meet these requirements can be purchased for less than a specified cost. Option 2 would be a fleet averaging program set up in a manner to yield an emission reduction equivalent to that expected from Option 1 described above, but would allow bus operators added flexibility in how they achieve the reduction. The following section provides more details of each of the two new options under consideration for the final rule.

The September 1991 NPRM also proposed a new PM standard for 1994 and later MY urban buses and a new NOx standard for 1998 and later MY HDEs. Section (202)(d) of the amended Clean Air Act contains a requirement that the useful life provisions for new HDE standards be equal to or greater than the useful life period for light-duty vehicles, engines and trucks, which was increased to ten years or 100,000 miles under the Clean Air Act Amendments of 1990. As a result, EPA is proposing to extend the current HDE useful life requirements from eight years to ten years for the two new standards contained in the September 1991 NPRM. The current HDE useful life mileage requirements for these new standards would remain the same. Section II.B provides more details on the change in HDE useful life requirements under consideration for the final rule.

II. Description of Revisions to Proposal

A. Urban Bus Retrofit/Rebuild Program

The following section describes the two options EPA is considering for the urban bus retrofit/rebuild program. Under the program described in today's

notice, operators of urban buses in the affected areas would have to be in compliance with all of the requirements of one of the two options described below. Bus operators would be allowed to switch back and forth between the options detailed below from year to year. However, if a bus operator switches to a different option after the program begins, then the bus operator must show that it has been in compliance with the requirements of the newly chosen option for all previous years of the program as well as the current year. As noted earlier, the proposed regulatory text for the two options under consideration for the urban bus retrofit/rebuild program is available in the public docket for this rulemaking (see Appendix A of "Supplementary Information—EPA Proposal for an Urban Bus Retrofit/Rebuild Program").

1. Option 1: Performance Based Program

The first approach available to operators of urban buses would be a performance based requirement. At the time an urban bus engine is rebuilt or replaced, bus operators would be required to install equipment certified to meet a PM standard of 0.10 g/bhp-hr for that engine model. However, the bus operator would only be required to install such equipment if the equipment could be purchased for less than some specified maximum incremental amount. EPA is considering a cost limit of \$5000, as described further below. The \$5000 limit would apply to all types of equipment certified to meet the 0.10 g/bhp-hr rebuild PM standard, including retrofit particulate traps and alternative fuels conversion kits. For alternative fuel conversion kits, if a bus operator does not already have refueling facilities to accommodate alternative fuels, the bus operator could include the cost of installing such facilities in its calculation of incremental cost, distributed evenly over the number of buses they plan to convert to alternative fuels. EPA specifically requests comments on the appropriate cost limit for meeting the 0.10 g/bhp-hr rebuild standard, including justification for the value of such a limit.

It is likely that for some bus models, especially older models for which fewer buses remain in use, no equipment will be certified that can comply with the 0.10 g/bhp-hr PM standard. However, engine upgrades, such as manufacturer's rebuild kits, may be available that result in significant PM reductions. One example is the upgrade kit currently available for the Detroit Diesel 6V92TA engine. In cases where equipment

certified to meet the 0.10 g/bhp-hr PM standard does not exist, but where engine upgrades do exist, Option 1 would require that the engine upgrade equipment be used at time of rebuild, so long as the equipment provides a reasonable benefit at a reasonable cost. More specifically, such upgrades would have to result in at least a 25 percent reduction in engine-out PM levels on that engine model for a cost of \$2000 or less. EPA's desire in setting a minimum percent reduction requirement of 25 percent is to assist in the development of engine upgrade kits, such as those kits which upgrade an engine to a more recently certified configuration of an engine, as opposed to individual pieces of equipment, none of which result in significant emission reductions operating alone. Setting a lower minimum PM percent reduction requirement could lead to numerous requests for certification of individual parts that result in only minimal emissions reduction. Allowing equipment to be certified that results in lower percentage reductions of PM could also lower the effectiveness of the retrofit/rebuild program, especially if more than one piece of equipment is certified for a given engine model. In such a case, bus operators would likely choose the least expensive means of meeting the program requirements (i.e., individual components), resulting in lower emission reductions than would be possible with the use of an upgrade kit.

In addition to the back-up requirement of engine upgrades for engines where no equipment is available to meet the 0.10 g/bhp-hr PM rebuild standard, there would be an additional requirement for engines where no upgrade kit meets the minimum PM percent reduction or cost limitations discussed above. If at the time an engine is rebuilt or replaced, no equipment is available which meets either of the above standards (0.10 g/bhp-hr standard for \$5000 or less, or 25 percent PM reduction for \$2000 or less), the bus operator would be required to rebuild the engine to its original configuration, or at the bus operator's option, it could rebuild the engine to a configuration that has a certification PM level lower than the PM level of the original engine configuration.

As noted above, equipment that would either be used to meet the 0.10 g/bhp-hr PM standard or the 25 percent PM reduction requirement would need to be certified. A complete description of the proposed certification requirements are presented later in this notice. As part of the certification process, equipment manufacturers

would also be required to submit information showing that its equipment does not cause the engine to exceed any other certification emission standards applicable for that specific engine model. The equipment manufacturer would need to include emissions data for oxides of nitrogen (NOx), hydrocarbons (HC) and carbon monoxide (CO).

If a bus operator chooses Option 1 as described above, it would be required to use technology which has been certified for its specific engine when that engine is rebuilt or replaced. However, because bus operators need to plan their budgets in advance, it is important for them to know ahead of time what equipment will be required under Option 1. Therefore, EPA would establish a six-month period between the time when retrofit/rebuild equipment is certified and when it would be required to be used by a bus operator rebuilding an engine. Providing such a period should allow bus operators sufficient time to make budgeting decisions. EPA requests specific comment on the length of the period that would be appropriate to give bus operators necessary leadtime to plan their budgets.

EPA considers this program a derivative of the two options proposed in the September 1991 NPRM, in that the primary and secondary standards under this program are roughly equivalent to the standards proposed in the two September 1991 options, except that cost limits have been added. This performance based option would offer engine manufacturers, aftermarket parts suppliers, and others an equal opportunity to develop emission control technology which could result in potentially significant reductions of urban bus PM emissions.

Moreover, EPA believes that the retrofit/rebuild program described above would meet the requirements of the Clean Air Act to establish an "emission standard or emissions control technology requirement [that] shall reflect the best retrofit technology and maintenance practices reasonably achievable." It would directly incorporate limitations on cost, which the Agency believes is an appropriate implementation of the Clean Air Act's mandate that EPA shall require the best technology "reasonably achievable". EPA believes that cost is a significant consideration in determining what technology is reasonably achievable. Economic and cost considerations are significant factors in determining appropriate requirements under similar standards. For example, both the terms "best available control technology" and

"reasonably available control technology" have been defined to include considerations of cost and economic impacts. (See Clean Air Act section 169(3) and 44 FR 53761 (September 17, 1979).)

EPA believes that this situation justifies a specific cost limit as part of the emission standards. In most cases in which EPA sets new vehicle emission standards, a large number of vehicles will be covered by the regulations and there are numerous manufacturers that will compete in the market. For example, over 200,000 heavy-duty vehicles are sold each year in the United States. The resulting competition, and the ability for manufacturers to achieve a large volume of sales, off-setting development costs, provides an incentive for manufacturers to enter the market and for manufacturers to keep costs as low as possible. However, the urban bus retrofit/rebuild program will affect a very limited number of vehicles. The total number of 1993 and earlier MY urban buses that will be affected by the retrofit/rebuild program over the entire life of the program is approximately 35,200 buses. Moreover, because this program will regulate buses certified over several years, during which time emission standards for new buses varied considerably, buses regulated under the program will have engine and chassis characteristics that are very different from one another. In turn, this may limit the competition among retrofit/rebuild equipment manufacturers, since the development of such equipment may require significant capital expenditures for each bus type. Additionally, unlike new emission standards, which generally regulate vehicle or engine manufacturers, the retrofit/rebuild program will be directed towards bus operators, who have little direct control of the development of retrofit/rebuild equipment. This could potentially result in the creation of a captive market of bus operators that could be subject to price abuse by equipment manufacturers. Moreover, though EPA believes that later model buses subject to this program will be able to meet the 0.10 g/bhp-hr PM standard without prohibitive costs, EPA is not convinced that buses from model years before 1988 will be able to meet this standard without prohibitive costs. For this reason, EPA believes that a cost limit is appropriate and will prevent bus operators from incurring unreasonably high expenses to comply with the retrofit/rebuild program.

For the 0.10 g/bhp-hr PM standard, EPA is proposing an incremental equipment cost limit of \$5,000 (in 1991

dollars). As proposed, the limit would apply to the purchase price of the equipment certified to meet the 0.10 g/bhp-hr PM rebuild standard and would not include installation, shipping, taxes, or other related costs. EPA believes that \$5,000 is a reasonable cost limit based on the comments received on the original proposal. Donaldson Corporation, a manufacturer of aftermarket particulate traps, submitted comments on the costs of particulate trap systems showing that current costs run between \$8,100 and \$17,500 per unit. However, Donaldson also forecast that with increased production and further improvements in technology, particulate trap costs in the 1995 time frame are expected to be below \$5,000 per unit.

In setting the cost limit at \$5000, EPA has attempted to balance the cost of the program to bus owners with the emission reduction goals of the Act and the fact that equipment manufacturers will not manufacture and market retrofit equipment to meet a 0.10 g/bhp-hr rebuild PM standard unless they have the financial incentive to do so. EPA believes that setting a cost limit higher than \$5000 could require bus operators to incur unreasonable costs. Based on comments submitted on the September NPRM, an incremental cost of \$5000 would result in a 50 percent increase in rebuild costs over the current typical rebuild cost of \$10,000. Considering credible comments from the American Public Transit Association and several individual transit companies, EPA believes that many transit operators will be unable, without significant financial hardship, to incur large increases in operating expenses to cover the cost of a retrofit/rebuild program that may require rebuild expenses to increase by over 50 percent. Because transit companies operate on a very tight budget, significantly higher rebuild costs could make it necessary for transit companies to raise fares, a very unpopular decision and a difficult process according to transit companies. A higher cost limit would also increase the incentive for a bus operator to delay or not perform a rebuild, lowering the potential emission benefit of the program.

A cost limit lower than \$5000 would likely limit the availability of such rebuild equipment and reduce the environmental impact of the program, according to comments on the September NPRM. Comments from Donaldson Company and ICI Products indicate that the current cost for a retrofit particulate trap can be as high as \$17,500, and that the current cost to convert a bus to run on Methanol/

Avocet is as high as \$17,000. Costs will have to come down significantly from these current costs to meet a cost limit of \$5000. The most optimistic cost projections from Donaldson and ICI Products for such equipment in the 1995 time frame are at or near the \$5000 limit; a lower limit would thus have the likely effect of ruling out retrofit technology for several families of bus engines.

EPA also believes that a \$5000 cost limit is reasonable from a cost effectiveness standpoint. Using a maximum cost of \$5000 for a particulate trap, and including fuel economy impacts and maintenance costs that would be expected from using a particulate trap, a \$5000 limit results in a discounted cost effectiveness of approximately \$16,700 per ton of PM emissions reduction. This is similar to the cost effectiveness of the 0.10 g/bhp-hr urban bus PM standard of \$12,900–\$14,700 per ton. The reader is directed to the supporting documentation contained in the public docket for this rulemaking ("Supplementary Information—EPA Proposal for an Urban Bus Retrofit/Rebuild Program") which contains an analysis of the cost effectiveness of the retrofit/rebuild program presented in this notice. The cost effectiveness of the retrofit/rebuild program does vary somewhat depending on the age of the bus. However, older buses, which will be experiencing their second or later rebuild, tend to be the higher PM emitting buses. Therefore, even though older buses have fewer miles left before they will be retired, the higher emission reduction which could be obtained from meeting the 0.10 g/bhp-hr rebuild standard offsets the lower remaining mileage. The result of this is a reasonable cost effectiveness for older model year buses as well as for newer model year buses.

In the less stringent 25 percent reduction case, EPA is considering a cost limit of \$2000 (in 1991 dollars). EPA believes a cost limit is necessary for engine rebuild equipment in order to limit the potential for price abuse that could occur with a captive market for such rebuild equipment. The lower cost limit results from consideration of the type of equipment that is used in rebuilding an engine, the lower emission reduction that would be realized with this equipment, compared to a trap retrofit or an alternative fuel conversion, and the cost effectiveness of using such equipment. A typical engine upgrade kit replaces engine parts from an older engine configuration with equipment from a more recent model year configuration of that engine. The increased cost of such an upgrade kit is

the incremental cost of the newer model year parts over the equipment being replaced. Based on comments received from Cummins Engine Company and Detroit Diesel Corporation on the September 1991 NPRM, such upgrade kits are expected to be available for \$2000 or less (incremental to typical rebuild costs).

EPA believes that a \$2000 cost limit is reasonable for the 25 percent reduction requirement. Although it may be feasible to develop more complicated engine upgrades, such as those which would include the retrofit of turbocharging and/or aftercooling, the incremental cost of doing such upgrade kits would be much higher than \$2000, and the modifications would not result in significantly higher emissions benefits. (SCRTD projected that the incremental equipment cost for retrofitting a mechanically controlled 6V-92TA engine to the electronically controlled DDECII configuration would be approximately \$6700 per bus.) In addition, if EPA were to implement a cost limitation of \$2000 for an upgrade that achieves a 25 percent reduction in PM, the discounted cost effectiveness would be around \$15,900 per ton, just about the same as the cost effectiveness of the 0.10 g/bhp-hr rebuild standard assuming a \$5000 cost noted above.

EPA is considering the \$5000 and \$2000 cost limits in order to protect bus operators from price abuse. However, EPA has concerns that such limits may end up effectively setting the cost of the available equipment, especially if there is a lack of adequate competition among retrofit/rebuild equipment manufacturers as mentioned earlier. EPA requests comment on the \$5000 and \$2000 cost limits under consideration for this option, as well as appropriate cost figures or other means by which EPA could ensure a reasonable program. EPA also requests comment on the 25 percent minimum PM reduction requirement under consideration for engine rebuild equipment. Commenters should provide justification for any alternative cost figures or minimum percent reduction requirements.

EPA has estimated the PM emission reductions which are likely to be realized from the performance based option. Figure 1 shows the projected baseline emissions from the 1993 and earlier urban buses included in the retrofit/rebuild program assuming there were no retrofit/rebuild program. In addition, Figure 1 presents the likely minimum and maximum levels possible under the option described above. The minimum reduction estimate is based on the assumption that durable, low cost

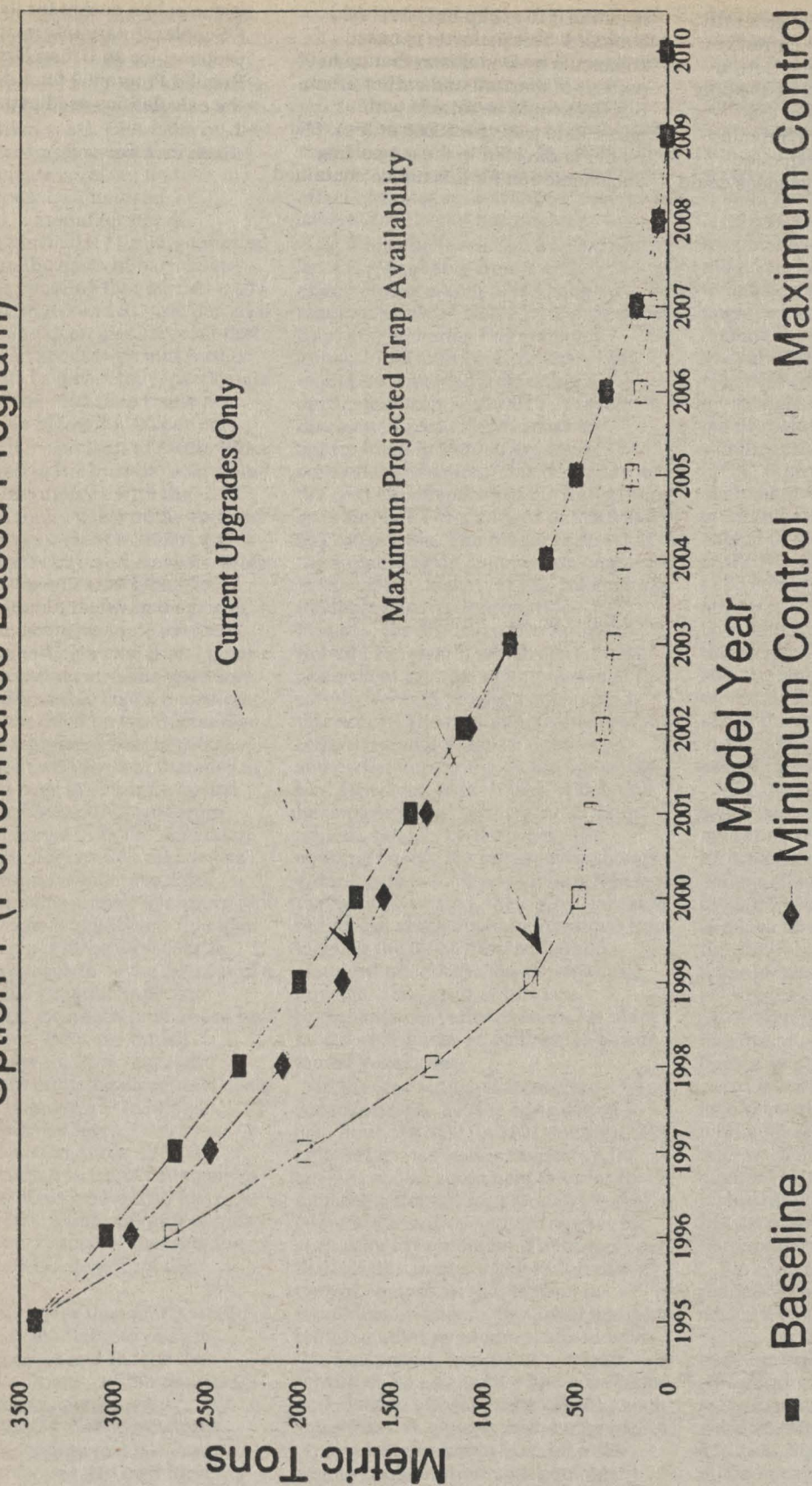
particulate traps will not be generally available and that the one currently available upgrade kit for the Detroit Diesel 6V92TA engine will be the only equipment available to meet the requirements of the retrofit/rebuild program. The maximum reduction estimate assumes that all engines could

meet the 0.10 g/bhp-hr PM rebuild standard. This estimate is based on comments by Donaldson that up to 95 percent of the 1993 and earlier urban bus fleet could be retrofit with particulate traps for \$5000 or less. The reader is directed to the supporting documentation for this notice contained

in the public docket for this rulemaking ("Supplementary Information-EPA Proposal for an Urban Bus Retrofit/Rebuild Program") for a description of the calculations used in preparing Figure 1.

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Figure 1
Estimated Range of Particulate Emissions Under
Option 1 (Performance Based Program)



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One point that should be noted with regard to this retrofit/rebuild program is that under this option, EPA would not require a bus operator to rebuild any engine; nor would EPA require that any rebuild be performed by a specific date. The retrofit/rebuild program requirements only become effective when a bus operator chooses to rebuild an engine. Since most bus operators have limited budgets, they could conceivably elect a variety of ways to reduce the economic impact of the program, for example, by delaying or reducing the number of rebuilds performed after January 1, 1995. Such operational changes could significantly reduce the environmental benefit of the retrofit/rebuild program.

2. Option 2: Averaging Based Program

The Agency is also considering giving operators of urban buses the option of a market-based averaging program. EPA is interested in implementing market-based programs that meet the statutory requirements while easing the burden on the regulated industry. Specifically, the retrofit/rebuild program could be more effective if bus operators were given greater flexibility in meeting the requirements of the program. EPA is aware that Option 1, alone, may be inflexible and could cause problems for bus operators that do not have the financial resources to retrofit much of their fleet. As noted by the American

Public Transit Association, and supported by Metro-Dade Transit Agency and New Jersey Transit, the public transit industry has limited funding and in many areas is currently facing financial hardship. Also, there is no indication of a funding increase from the Federal government to cover any major costs associated with this program. Therefore, much of the cost would either have to be internalized by the public transit companies, causing further financial hardship, or would be shifted to mass transit customers. This could result in reduced ridership and increased use of low-occupancy automobiles, which would likely have an adverse impact on the environment.

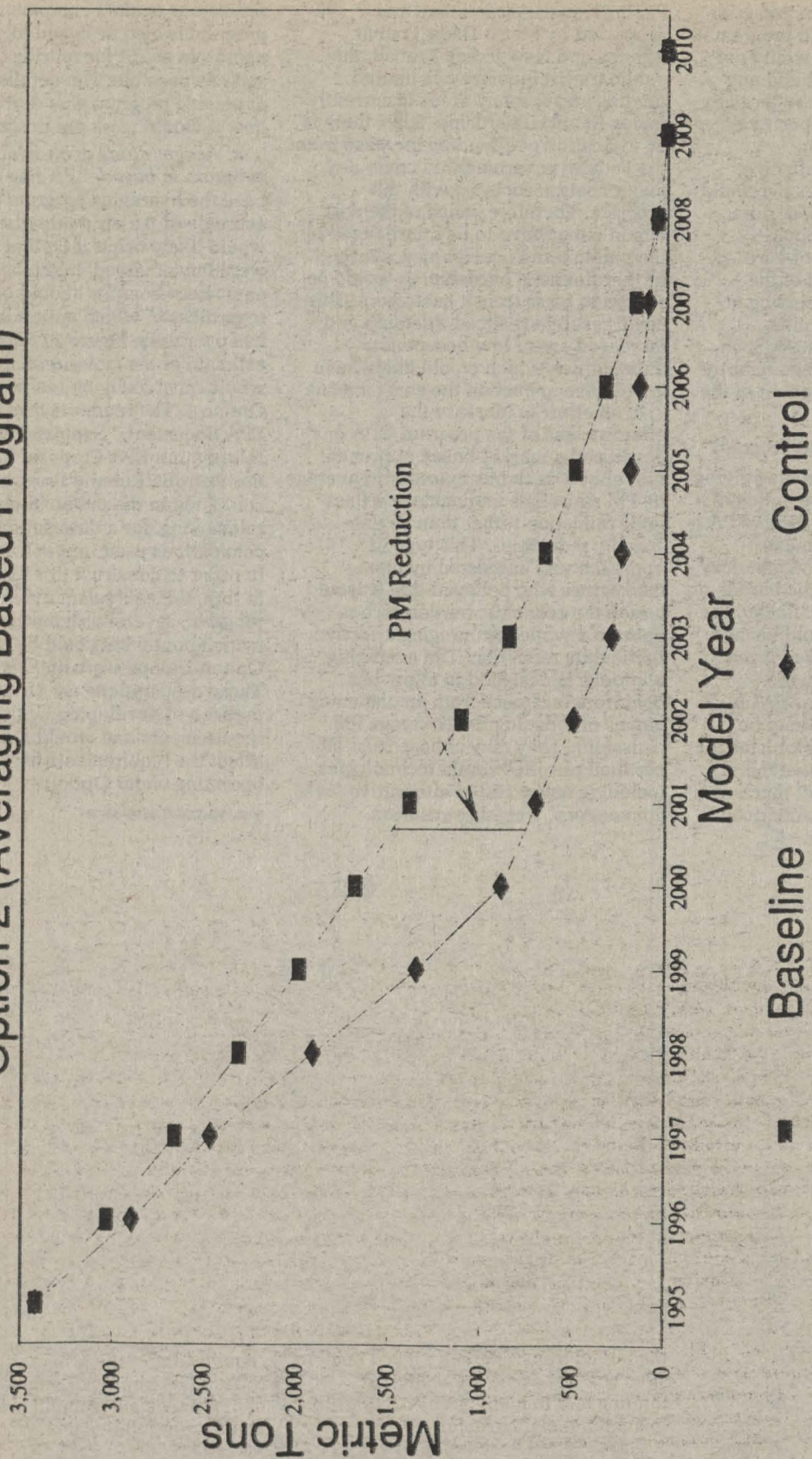
In an effort to increase the effectiveness of the program, EPA has developed a market-based approach that allows each bus operator to average its PM emissions and achieve a fleet-wide reduction rather than engine-specific reductions. This type of approach was suggested by one commenter who believed that it would lessen the economic burden on bus operators while encouraging effective particulate reduction. The averaging approach is designed to allow bus operators to choose from among many means of reducing fleet average PM emissions. They may choose from all certified retrofit/rebuild technologies, including any certified alternative fuels conversions, weighing emission

reductions against equipment costs. This program is also designed to give bus operators credit for retiring old buses as soon as possible. The details of how this averaging program was derived and how it would work are described below.

a. *Assumptions upon which averaging program is based.* EPA has chosen to base the averaging program on its best estimate of the air quality benefit that would likely occur if Option 1 alone were implemented. In this way, equivalent benefits should be achieved regardless of which option is taken by bus operators. Figure 2 contains EPA's estimate of the emission reduction that would most likely be realized under Option 1. The reader is directed to the EPA document, "Supplementary Information-EPA Proposal for an Urban Bus Retrofit/Rebuild Program," which is contained in the public docket for this rulemaking, for a description of the calculations used in preparing Figure 2. In order to construct this estimate and, in turn, the equivalent averaging program, several assumptions had to be made about what could be expected if Option 1 alone were implemented. These assumptions are strictly for the purpose of developing Option 2 requirements and would not in any way affect the requirements for bus fleets operating under Option 1.

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Figure 2
Estimated PM Emissions Reduction Under
Option 2 (Averaging Based Program)



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The first critical assumption EPA had to make was which engines would actually have equipment available meeting the cost and emission requirements of Option 1. Based on the information mentioned earlier, EPA believes that suitable technology to meet the 0.10 g/bhp-hr PM rebuild standard will be made available for engines manufactured in and after model year 1988 when the first PM standard went into effect for urban buses. Because 1988 and later MY engines were certified to 0.60 g/bhp-hr or less, EPA would expect that these engines, when rebuilt or retrofitted, could achieve the 0.10 g/bhp-hr standard and maintain this level for the remainder of an engine's life. Again, the most likely retrofit equipment to be available for installation under the program is the particulate trap because of cost and technical considerations.

EPA believes it is far less likely that pre-1988 MY buses can be retrofitted to achieve and maintain a 0.10 g/bhp-hr level, for two reasons. First, since there was no PM standard in place before, 1988, PM levels for these engines are generally higher than the emissions from later model year engines. Most of these engines are mechanically controlled, and in some cases naturally aspirated, which characteristically cause higher emissions. EPA has assumed such pre-1988 engines average about 0.50 g/bhp-hr, but some engines could be emitting at a much higher level. This would be especially likely for older, high mileage engines. While trap technology could be available for some of these engines to achieve 0.10 g/bhp-hr (current trap efficiencies are about 85%), it is unlikely that this low level could be maintained for the rest of the engine's life (the trap supplier will be responsible for retrofit trap performance up to 290,000 miles). EPA believes that trap suppliers will be unwilling to warrant traps on these high emitting engines for this long a period or will be unable to produce traps for such engines (with the required warranty) for less than the \$5000 cost limit.

The second reason EPA feels that equipment meeting the 0.10 g/bhp-hr standard will probably not be available for pre-1988 MY buses is that, based on comments received, bus operators may not be willing to undertake the expense to install such systems on these older buses. Some commenters said that retrofitting older buses would not be cost efficient since the buses would be retired relatively soon after the retrofit. In such cases, bus operators would likely rebuild older bus engines one last time before the retrofit/rebuild program starts and try to make the engines last

until they could be retired, thus avoiding the rebuild requirements. These factors suggest that the market for pre-1988 MY engines would be very small and not attractive to trap suppliers who would be required to certify the trap systems for use with the engines.

Under Option 1, bus operators would be required to use upgrade kits on engines not able to achieve the 0.10 g/bhp-hr standard. EPA has assumed that one upgrade kit for the Detroit Diesel 6V92TA engine will be available for use under the program. This kit is currently available and there is no reason to believe the kit will be removed from the market. EPA received comments from Cummins Engine Company that an upgrade kit could be made available for the L-10 engine. However, since very few L-10 engines were sold before 1988, and since EPA believes that 1988 and later MY L-10 engines can, and therefore will be required under Option 1 to meet the 0.10 standard, EPA considers it unlikely that kit development will be undertaken. Engine manufacturers have indicated that other pre-1988 engine types do not present an opportunity for an upgrade that would offer a significant PM emission benefit, because of the low volume of these other pre-1988 models that will be rebuilt after 1995 and because there is no apparent upgrade technology that would allow such upgrades to be made profitably by manufacturers. EPA has no information suggesting that these comments are incorrect. Therefore, EPA has assumed that only the currently available kit for the 6V92TA engine will be available for the retrofit/rebuild program for purposes of establishing the averaging option.

In estimating the impact of the retrofit/rebuild program on rebuild practices, EPA has assumed that bus operators would modify their rebuild practices in such a way that the overall fleet cost of rebuilds would not significantly increase due to the retrofit program during the life of the program. EPA believes this is a reasonable assumption because, as described below, it is feasible for bus operators to reduce their fleet retrofit costs by modifying their rebuild practices to increase the time between rebuilds and potentially by eliminating some rebuilds altogether. Moreover, as noted earlier, the public transit industry has a need to save costs because it has limited funding and in many areas is currently facing financial hardship.

Based on industry input, EPA has assumed that under current operating practices the first rebuild of a bus engine generally occurs after five years, with subsequent rebuilds occurring in the

eighth and eleventh year of operation. Based on information from the Federal Transportation Administration (formerly Urban Mass Transportation Administration), it appears that buses are kept for about 15 years on average. In addition, EPA assumed that the nationwide bus population age is evenly distributed over the model years that will be affected by this program. Comments to EPA provided by South Coast Regional Transit District indicate that a current typical engine rebuild costs about \$10,000. Comments from other transit companies and manufacturers indicate that this estimate is reasonable. Using this cost and rebuild schedule information, EPA estimated the overall cost of current rebuilds to bus operators that would be affected by the retrofit/rebuild program. EPA then developed an annual rebuild schedule based on the presumption that bus operators will modify their current average rebuild schedule of five, eight, and eleven years in order to keep rebuild costs under the program relatively equal to current rebuild costs (using the increased costs necessary to retrofit or upgrade 1988 and later engines and pre-1988 6V92TA engines). EPA assumed a trap cost of \$5000, core replacement cost of \$700 (based on the current core replacement cost provided by Donaldson Company) incurred after 150,000 miles of trap operation, and an upgrade cost of \$2000 for this analysis. Further detail of this analysis is provided in the public docket for this rulemaking under the title, "Supplementary Information—EPA Proposal for an Urban Bus Retrofit/Rebuild Program."

Figure 3 presents the estimated current rebuild schedule for pre-1994 MY buses as well as the modifications to the rebuild schedule anticipated under the retrofit/rebuild program. The modifications that EPA assumed would occur are based on engineering judgement as to what could reasonably be expected given today's rebuild practices. EPA believes that it is reasonable to assume that rebuilds of 1988 and later MY buses scheduled for 1995 could be done one year earlier, in 1994, in order to postpone installing high cost technology. In addition, EPA has assumed that the overall number of rebuilds under the program could be reduced by improved engine maintenance and rebuild practices, resulting in rebuilds being spaced further apart. EPA assumed that with actions such as these, the time interval between rebuilds could be extended by one to two years without engine failure occurring. Finally, EPA assumed that

rebuild patterns for pre-1988 MY buses would remain the same since these buses would likely only have engine upgrade technology available for retrofit. EPA believes that the added cost due to the upgrade would be insufficient to warrant shifting the rebuild schedule for these model years.

EPA recognizes that rebuild schedules vary greatly among transit companies depending on the maintenance practices, rebuild decision criteria,

extensiveness of rebuilds, economic factors and other considerations. EPA's goal in designing Figure 3 was to quantify the affects of the rebuild program on fleet rebuild practices in order to more realistically assess the overall benefit of the program. EPA requests comments on Figure 3 and the assumptions used to derive it. In particular, EPA requests comments on whether it is appropriate for EPA to include in its averaging schedule the

assumptions that bus operators will move rebuilds up one year to 1994 or delay rebuilds for up to two years in order to postpone the effects of the rebuild regulations. EPA also requests suggestions on ways improve this analysis and to better represent the national bus fleet on average. Commenters should provide data to support their comments where possible.

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Figure 3
Estimated Current Rebuild Schedule

| Engine Model Year | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|-------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|--------|------|--------|
| 1993 | | | | | | | | | | | | | | | | |
| 1992 | | | | | | R1 | | | R2 | | | R3 | | | | RETIRE |
| 1991 | | | | | | R1 | | | | | R3 | | | RETIRE | | |
| 1990 | | | | | | | | | | | | | | RETIRE | | |
| 1989 | | | | | | | | | | | | | | | | |
| 1988 | | | | | | | | | | | | | | | | |
| 1987 | | | | | | | | | | | | | | | | |
| 1986 | | | | | | | | | | | | | | | | |
| 1985 | | | | | | | | | | | | | | | | |
| 1984 | | | | | | | | | | | | | | | | |
| 1983 | | | | | | | | | | | | | | | | |
| 1982 | | | | | | | | | | | | | | | | |
| 1981 | | | | | | | | | | | | | | | | |
| 1980 | | | | | | | | | | | | | | | | |
| 1979 | | | | | | | | | | | | | | | | |

R1 = First Engine Rebuild
R2 = Second Engine Rebuild
R3 = Third Engine Rebuild

Adjustment Under Option 1 Indicated By:

Rebuild Not Performed Under Option 1 Indicated By:



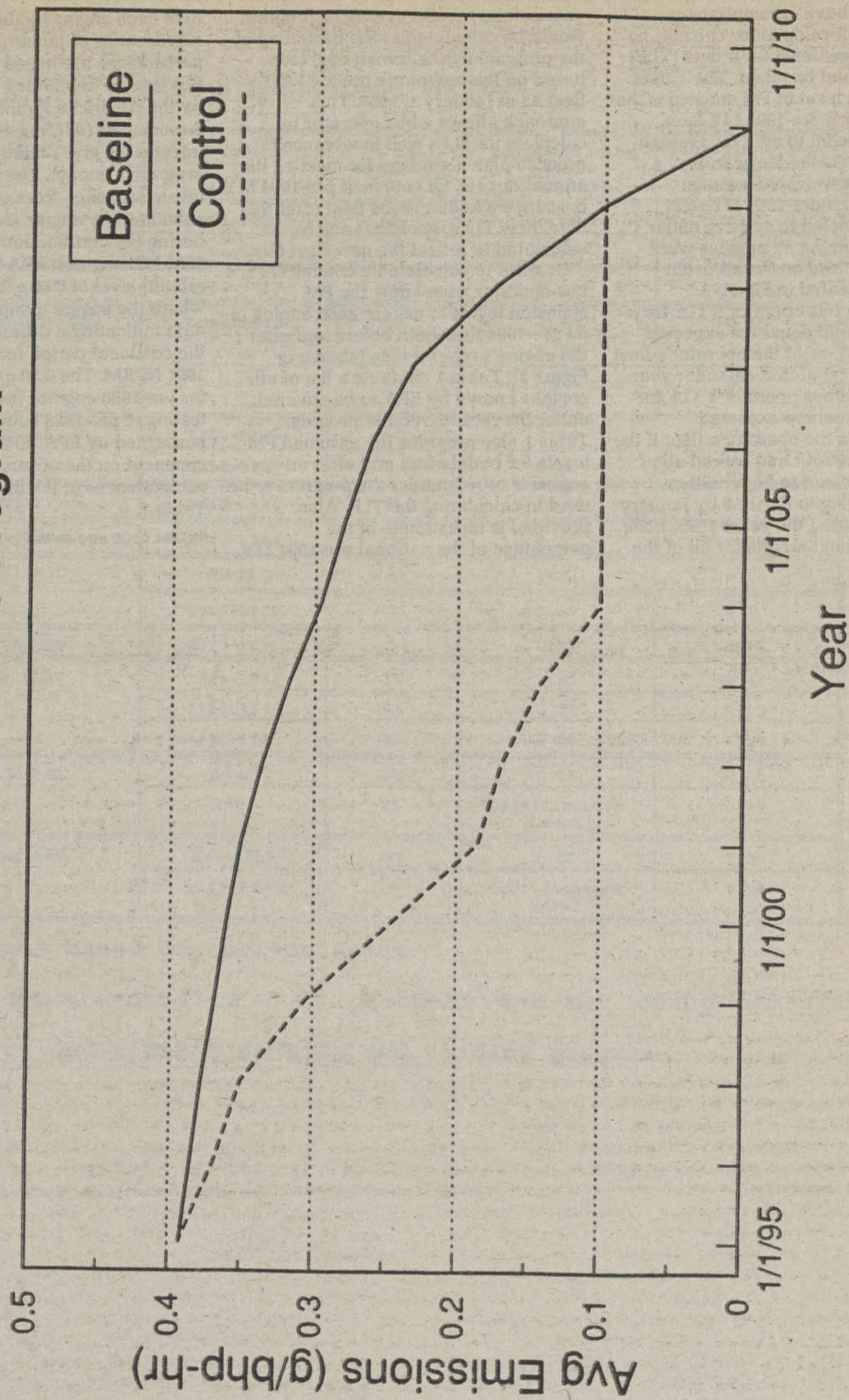
b. *Operation of the averaging program.* If Option 1 alone were applied to the national urban bus fleet covered by this regulation, under the above assumptions, the average PM level of buses covered by the program would be similar to those given in Figure 4. (The reader is directed to the supporting documentation for this notice contained in the public docket for this rulemaking for a complete description of the calculations used in preparing Figure 4.)

Under Option 2, if an individual bus company had a mix of buses matching the national mix, this curve would approximate the average PM level EPA would expect that transit operator to achieve. However, because all bus fleets differ in engine mix, some bus operators will be able to achieve a fleet average PM level below the national average using the best retrofit technology reasonably achievable, while other companies will not be able to meet the

national average. If EPA were to require all bus operators to meet the same fleet PM emission average, some operators would not need to install the best technology reasonably achievable, while others would be required to meet an average that is infeasible for their fleets. Therefore EPA believes it is appropriate to allow for individual, fleet specific targets to be calculated based on the engine makeup of a bus operator's fleet.

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Figure 4
Estimated National Fleet Average PM
Level Under Rebuild Program



Using the above assumptions, a process was developed for calculating an annual target level for a fleet (TLF) for an individual bus fleet. The TLF is the maximum level of PM emissions that a bus operator's pre-1994 MY fleet would be allowed to emit on average during a given calendar year. It represents the weighted average emission level a pre-1994 MY fleet would be expected to achieve under Option 1, assuming all engines were rebuilt and retired on the adjusted schedule presented in Figure 3. Specifically, a bus operator's TLF for a given year would equal the expected average emissions of the operator's fleet as of January 1st of that calendar year. For example, a bus operator's TLF for 1998 would equal the expected emissions from the operator's fleet if the operator had rebuilt and retired all of the buses expected to be rebuilt or retired according to Figure 3 by January 1, 1998 (i.e., during the years 1995, 1996, and 1997.) Annual targets for all of the

years of the rebuild averaging program would be calculated at the beginning of the program by the transit operator, based on the operator's pre-1994 MY fleet as of January 1, 1995. This approach allows a bus operator to calculate its TLFs well in advance in order to plan a strategy for meeting its annual targets. Of course, if pre-1994 MY buses were added to the fleet after this date, new TLFs would have to be calculated to reflect the new fleet mix.

In order to calculate its annual TLFs, a bus operator must know the PM emission levels to use for each engine in its pre-1994 fleet both before and after the engine's rebuild time (shown in Figure 3). Table 1 contains a list of all engines known by EPA to be covered under the retrofit/rebuild program. Table 1 also provides the assumed PM levels for both before and after an engine is rebuilt under the program to be used in calculating the TLF. Also provided is an estimate of the percentage of the national pre-1994 MY

fleet each engine model is expected to represent as of January 1, 1995. These percentages are based on the "Transit Bus Engine Rebuilding Survey" provided by the American Public Transit Association (APTA), and have been included to give an indication of the program's impact. The pre-rebuild PM levels are taken from certification data submitted by engine manufacturers during the certification process. For pre-1988 MY engines, EPA assumed a pre-rebuild level of 0.50 g/bhp-hr except where the engine manufacturer provided data indicating a different level during the comment period for the September 1991 NPRM. The 0.50 g/bhp-hr PM level for pre-1988 engines is based on limited testing of pre-1988 heavy-duty engines performed by EPA. EPA requests comment on the accuracy and completeness of the information in Table 1.

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Table 1

Urban Bus Engine PM Levels

| Engine Model | Model Year Sold | % of Affected Population | Pre-Rebuild PM Level (g/bhp-hr) | Post-Rebuild PM Level (g/bhp-hr) |
|-------------------|-----------------|--------------------------|---------------------------------|----------------------------------|
| DDC 6V92TA | 1979-1987 | 32% | 0.50 | 0.30 |
| | 1988-1989 | <1% | 0.30 | 0.10 |
| DDC 6V92TA DDECI | 1986-1987 | 4% | 0.50 | 0.50 |
| DDC 6V92TA DDECII | 1988-1991 | 21% | 0.31** | 0.10 |
| | 1992 | 6% | 0.25 | 0.10 |
| | 1993 | 6% | Certification Level | 0.10 |
| DDC 6V71N | 1973-1987 | 8% | 0.50 | 0.50 |
| | 1988-1989 | <1% | 0.50 | 0.10 |
| DDC 6V71T | 1985-1986 | 3% | 0.50 | 0.50 |
| DDC 8V71N | 1973-1984 | <1% | 0.50 | 0.50 |
| DDC 6L71TA | 1990 | <1% | 0.59 | 0.10 |
| | 1988-1989 | <1% | 0.31 | 0.10 |
| DDC 6L71TA DDEC | 1990-1991 | <1% | 0.30** | 0.10 |
| Cummins L10 | 1985-1987 | 1% | 0.65 | 0.65 |
| | 1988-1989 | 3% | 0.55 | 0.10 |
| | 1990-1991 | 4% | 0.46** | 0.10 |
| Cummins L10 EC | 1992 | 2% | 0.25 | 0.10 |
| | 1993 | 2% | Certification Level | 0.10 |
| Other Engines | Pre-1988 | 8% | 0.50 | 0.50 |
| | 1989-1993 | - | Certification Level | 0.10 |

* Estimate based on current sales

** 1991 PM standard of 0.25 g/bhp-hr was met using emission credits under EPA's banking and trading program

In order to compute a target level for a fleet (TLF) for a particular bus fleet, the information in Table 1 would be used in conjunction with the adjusted rebuild schedule in Figure 3 and a list of all pre-1994 buses in an operator's bus fleet. Figure 3 indicates which emission level (pre-rebuild or post-rebuild) to use on any given date in order to calculate a target level for a fleet (TLF). The date at which the emission level changes from the pre-rebuild PM level to the post-rebuild PM level is January 1st of the year following the first rebuild

scheduled to occur under the program according to Figure 3. For example, a bus operator would calculate its TLF for 1998 using the pre-rebuild PM levels for the buses that are not scheduled to be rebuilt in 1995, 1996 or 1997 (which according to Figure 3, are buses from MY 1993, 1992, 1990, 1989, and 1998) and using the post-rebuild PM levels for the buses that are scheduled to be rebuilt in 1995, 1996, and 1997 (buses from MY 1991, 1987, 1986, 1985, and 1984).

The target level for a fleet (TLF) for any given calendar year would be the

weighted average of the expected emission levels (taken from Table 1) of all pre-1994 MY buses that are fifteen years old or less in that year. Equation 1 below would be used to calculate the target. It should be noted that if a fleet has more than one engine type for a given model year, a weighted PM emissions level would need to be calculated and used for calculating the TLF. If all buses of a given model year have the same engine type, the weighted PM emissions level would simply be the PM emission level of that engine type.

Equation 1

$$TLF_{CY} = \frac{\sum_{MY = CY - 15}^{1993} (B_{MY}) * (WP_{MY})}{\sum_{MY = CY - 15}^{1993} (B_{MY})}$$

B = Number of buses as of 1/1/95
 WP = Weighted Projected PM emissions level
 CY = Calendar year of target
 MY = Model year

Where:

$$WP_{MY} = \frac{\sum_1^z (B_z) * (P_z)}{\sum_1^z (B_z)}$$

z = All engine configurations in MY
 B = Number of buses as of 1/1/95
 P_z = Engine specific PM level (See Table 1)

In order for a bus operator to comply with the averaging program, the actual fleet average level of emissions attained by the operator must be equal to or below its TLF. The fleet level attained (FLA) by a bus operator is the weighted average of the actual (i.e., certified) PM emission levels of all the pre-1994 MY buses in the fleet. The FLA would equal the sum of the emission levels of every bus in the company's fleet divided by the total number of buses. A bus' actual emission level will vary depending on

whether the engine is in its original configuration or whether emission reduction technology has been installed. For this program, engines in their original configuration are assumed to be operating at their pre-rebuild levels in Table 1. For engines not in their original configuration, the post-rebuild emission level will depend on the certification level of the equipment that was installed at time of rebuild. The post-rebuild particulate emission level obtained by such equipment will be determined as

part of the certification process described later in this notice. Buses retired early (sooner than the 15 year average life used in equation 1) would be treated as though they were modified buses with zero emissions. Equation 2 would be used to calculate the bus operator's fleet level attained (FLA) of PM emissions. TLF and FLA values should be rounded to two decimal places.

Equation 2

$$FLA = \frac{\left(\sum_{MY = MY_1}^{1993} (B_{MY}) * (WE_{MY}) \right)}{\left(\sum_{MY = MY_1}^{1993} B_{MY} \right) + B_R}$$

B = Number of buses still in fleet
 WE = Weighted PM Emissions
 MY_1 = Model year of oldest bus

Where:

B_R = Number of buses retired that would have been less than 15 years old on 12/31 of the calendar year for which the FLA is being calculated, and

$$WE_{MY} = \frac{\left(\sum_1^q (B_q) * (E_q) \right)}{\sum_1^q (B_q)}$$

q = All engine configurations in MY
 B = Number of buses still in fleet
 E_q = Engine specific PM emissions level
 MY = Model year

Example

To provide a thorough understanding of how the averaging program would

work, it will be applied to a fictitious transit authority called "Rapid Transit". Table 2 shows Rapid Transit's assumed

fleet makeup along with pre-rebuild and post-rebuild emission levels taken from Table 1.

TABLE 2.—MAKEUP OF HYPOTHETICAL "RAPID TRANSIT" BUS FLEET

| Engine | Model year | Quantity as of 1/1/95 | Pre-rebuild level (g/bhp-hr) | Post-rebuild level (g/bhp-hr) |
|-------------------------|------------|-----------------------|------------------------------|-------------------------------|
| DDC 6V92TA DDEC II..... | 1992 | 75 | 0.25 | 0.10 |
| Cummins L-10 | 1990 | 100 | .46 | .10 |
| Cummins L-10 | 1989 | 30 | .46 | .10 |
| DDC 6V92TA DDEC II..... | 1989 | 5 | .31 | .10 |
| MAN..... | 1987 | 80 | .50 | .50 |
| DDC 6V92TA..... | 1984 | 150 | .50 | .30 |
| DDC 6V71N..... | 1982 | 70 | .50 | .50 |
| DDC 6V71N..... | 1977 | 100 | .50 | .50 |

The first step is to calculate a target level for a fleet (TLF) for each year. A sample TLF calculation is provided in Table 3 for the Rapid Transit's bus fleet for calendar year 1996. Since the 1984 and 1987 MY engines are scheduled to be rebuilt in 1995, only those buses would be expected to be at their post-rebuild level. The complete set of targets

for Rapid Transit's fleet is shown in Table 4.

Next, the bus operator would be able to develop a strategy to comply with the target levels. Table 4 presents one approach open to Rapid Transit that would comply with the Option 2 averaging program. The strategy used in this approach maximizes the number of buses retired earlier than 15 years of use

while it minimizes the number of particulate traps necessary to meet the requirements. Table 5 presents a sample fleet level attained (FLA) calculation for 2,000, given the schedule shown in Table 4. For this example, EPA assumed that traps would reduce the post-rebuild particulate emissions level to 0.10 g/bhp-hr in order to calculate the FLAs. When actual FLAs are calculated under

the program, the emission level provided during the equipment certification

process would be used for the post-rebuild particulate emissions level.

TABLE 3.—SAMPLE CALCULATION OF TLF FOR CALENDAR YEAR 1996

| Engine | Model year | Quantity | PM level (g/bhp-hr) | Buses × PM level |
|------------------------|------------|------------------|---------------------|------------------|
| DDC 6V92TA DDEC II | 1992 | 75 | 0.25 | 18.75 |
| Cummins L-10 | 1990 | 100 | .46 | 46.00 |
| Cummins L-10 | 1989 | 30 | .46 | 13.80 |
| DDC 6V92TA DDEC II | 1989 | 5 | .31 | 1.55 |
| MAN | 1987 | 80 | .50 | 40.00 |
| DDC 6V92TA | 1984 | 150 | .50 | 45.00 |
| DDC 6V71N | 1982 | 70 | .50 | 35.00 |
| DDC 6V71N | 1977 | (¹) | (¹) | (¹) |
| Bus and emission total | | 510 | | 210.10 |

¹ Retired.

$$TLF_{1996} = \frac{\text{Total Emissions}}{\text{Total Buses}} = \frac{200.1}{510} = 0.39 \text{ g/bhp-hr}$$

TABLE 4.—RAPID TRANSIT ACTIONS UNDER REBUILD PROGRAM

| Calendar year | TLF* | Actions taken during calendar year to achieve following year's TLF | FLA* |
|---------------|------|--|-------|
| 1995 | N/A | Retire 100 '77 MY buses | |
| | | Upgrade 150 '84 MY buses | 0.46+ |
| 1996 | 0.39 | No rebuilds or retirements occur | .39 |
| 1997 | .39 | Retire 70 '82 MY buses | .39 |
| 1998 | .38 | Retire 37 '84 MY buses at 14 years | .38 |
| 1999 | | Retire 113 '84 MY buses | |
| | .35 | Retire 80 '87 MY buses at 12 years | .35 |
| | | Install traps on 53 '90 MY buses | |
| 2000 | .21 | No rebuilds or retirements occur | .21 |
| 2001 | .21 | No rebuilds or retirements occur | .21 |
| 2002 | | Retire 35 '89 MY buses | |
| | .21 | Retire 47 '90 MY buses at 14 years | .10 |
| | | Install traps on 20 '92 MY buses | |
| 2003 | .10 | No rebuilds or retirements occur | .10 |
| 2004 | .10 | Retire 14 '92 MY buses at 12 years | .10 |
| 2005 | | Retire 53 '90 MY buses | |
| | .10 | Retire 19 '92 MY buses at 13 years | .10 |
| 2006 | .10 | No rebuilds or retirements occur | .10 |
| 2007 | .10 | Retire 42 '92 MY buses | .10 |

*The FLA listed for each calendar year is the actual emission level calculated on January 1 of that year. Beginning on January 1 of a calendar year (and over the entire year), the FLA must be at or below the TLF for that calendar year.

TABLE 5.—SAMPLE CALCULATION OF 2000 FLA

| Engine | Model year | Quantity | PM level (g/bhp-hr) | Buses × PM level |
|------------------------|------------|------------------|---------------------|------------------|
| DDC 6V92TA DDEC II | 1992 | 75 | 0.25 | 18.75 |
| Cummins L-10 | 1990 | 47 | 0.46 | 21.62 |
| | | 53 | 0.10 | 5.30 |
| Cummins L-10 | 1989 | 30 | 0.46 | 13.80 |
| DDC 6V92TA DDEC II | 1989 | 5 | 0.31 | 1.55 |
| MAN | 1987 | 80 | 0.00 | (¹) |
| DDC 6V92TA | 1984 | (²) | (²) | (²) |
| DDC 6V71N | 1982 | (²) | (²) | (²) |
| DDC 6V71N | 1977 | (²) | (²) | (²) |
| Bus and emission total | | 290 | | 61.02 |

¹ Retired early.

² Retired.

The strategy shown in Table 4 is only one of several combinations of actions that could be taken to satisfy the program requirements. Bus operators would be able to choose any combination of emission reduction technology and bus retirement that best suited their situation. This allows maximum flexibility for the market to determine the most cost effective means for reducing emissions. Also, it should be noted that in order for FLAs to be at or below a TLF on January 1st of a given year, the bus operator must take actions (e.g., engine upgrades, trap retrofits, bus retirements) during the previous calendar year(s).

EPA is aware that working toward clean air is already a high priority for many transit companies across the country. Many have demonstration programs for pollution control technologies such as particulate traps and alternative fuels. These are often funded through special grants from Federal, State, or local government entities. EPA believes that benefits beyond those projected in Figure 2 may be achieved through the continuation and expansion of these efforts. Also, availability of additional funding for the rebuild program would reduce the need to revise rebuild schedules. This would also increase the benefits of the program. However, there is no evidence at this time that additional funding will be available in the future.

c. Legal authority for averaging program. EPA believes that this averaging program is consistent with the statutory requirements of section 219(d). Under section 219(d), EPA must promulgate regulations requiring that urban buses comply with an "emissions standard or emissions control technology requirement [that] reflects(s) the best retrofit technology and maintenance practices reasonably achievable." Though this language is silent on the issue of averaging, it allows EPA considerable discretion in determining what regulations are most appropriate for implementing section 219(d). EPA may prescribe either an emission standard or technology requirement. The statute does not specify what standard or technology must be implemented. The use of the phrase "reasonably achievable" gives EPA discretion in determining the technology or maintenance practices upon which the regulations will be based. Moreover, the language of section 219(d) requires that "urban buses" comply with EPA's regulations, rather than requiring "any" or "each" or "every" urban bus to comply with EPA's regulations. This indicates that EPA's

regulations may apply to urban buses in the aggregate, and need not apply to each urban bus individually. Taking these points together, EPA believes the statute permits the Agency to consider the emissions and cost savings potential of averaging in setting standards under this section, and to set average standards where such standards meet the statutory standard-setting test of reflecting the best retrofit technology and maintenance practices reasonably achievable.

EPA believes that the averaging program detailed above is fully consistent with this provision. The program gives bus operators the flexibility to meet their required emissions level using the most cost effective strategy available to them. The program also gives manufacturers of control technology a greater incentive to keep prices low as bus operators will have more ability to choose different methods of reducing emissions.

In addition, EPA believes that the restrictions included under this program can result in environmental benefits. The emission requirements mandated for affected fleets under this program are derived from the assumptions discussed in part 2.A. above. These assumptions include specific schedules for the rebuilding and retirement of each bus in an affected fleet. EPA has no independent authority under section 219(d) to require any bus operator to rebuild or retire its buses at any specific time or according to any specific schedule.¹ Therefore, in the absence of this averaging program, EPA regulations would not give bus operators any incentive to rebuild or retire their buses in a timely manner and in fact could give operators an incentive to delay rebuilding or retirement, potentially resulting in a large number of pre-1993 buses operating at high emissions levels even into the next decade. Because older buses generally are the highest-emitting buses, postponement of their rebuild or retirement would have an adverse environmental impact.

The averaging program, however, requires bus operators to meet a fleet-wide emission level that assumes that buses are retired on the usual schedule, after about fifteen years of use. Additionally, though EPA's rebuild schedule assumes some delay in rebuilding post-1988 engines, this assumption is reasonable, for the reasons discussed in part 2.A., and precludes even further postponements in rebuilding that may occur absent such

¹ EPA may have authority to require such rebuilding or retirement under its general rulemaking and enforcement provisions.

an averaging program. Moreover, as EPA has designed this program to encourage the timely retirement of older buses, the program will encourage the purchase of new urban buses that must meet much stricter emissions standards.

In any event, the averaging program has been carefully structured to have no adverse environmental impact. The emission levels proposed to be achieved by each affected urban bus fleet would be the same as those expected if all urban buses in each affected fleet complied with Option 1.

3. Certification of Retrofit/Rebuild Equipment

In order to ensure that the retrofit/rebuild options described above will result in actual emission reductions, an equipment certification program will be necessary. In the September 1991 NPRM, EPA discussed a certification program based on the type of equipment needing to be certified. For engine-based retrofits/rebuilds, EPA proposed that if an engine was brought to a configuration identical to one previously demonstrated to meet the rebuild standards, further testing would not be necessary. For aftertreatment-based retrofits/rebuilds, EPA requested comments on how to certify such equipment.

In response to the September 1991 NPRM, commenters generally supported EPA's approach for certification of engine-based rebuilds. EPA did not receive detailed comments in the area of aftertreatment certification. In light of the two retrofit/rebuild options contained in today's notice, EPA requests comments on the following approach for certification of retrofit/rebuild equipment.

For exhaust aftertreatment certification, the equipment manufacturer would need to perform emissions testing on an engine equipped with the aftertreatment system. The engine/aftertreatment system would be required to be tested over the Federal test procedure (FTP) for heavy-duty engines. In order to obtain certification, the manufacturer would have to comply with the 0.10 g/bhp-hr PM rebuild standard for a period of 290,000 miles, with an allowable maintenance interval of 150,000 miles.

To meet these certification requirements, an equipment manufacturer would have to submit emissions data showing compliance with the 0.10 g/bhp-hr PM standard for a given engine/aftertreatment system combination. In addition, they would have to assume liability for the emissions performance of the equipment

(if properly installed during the rebuild) for 290,000 miles, with an allowable maintenance interval of 150,000 miles. Since the engines on which this equipment will be retrofit are older engines, equipment manufacturers would need to certify their system on a representative engine which has been rebuilt at least once under normal operating conditions (i.e., around 200,000 miles of actual operation).

If the same aftertreatment system is to be used on more than one engine model, the equipment manufacturer would need to perform emissions testing on only the highest PM emitting engine model (based on engine-out PM levels without exhaust aftertreatment). If the highest PM emitting engine can meet the 0.10 g/bhp-hr PM standard using the aftertreatment system, EPA would accept this as proof that all lower emitting PM engines meet the standard as well. Determination of which engine has the highest PM levels would be based on previous certification data for 1988 and later engines, or would need to be supported by engine testing for pre-1988 engines. As noted above, the equipment manufacturer still would be required to assume liability for the performance of the aftertreatment equipment on all of the applicable engine models for 290,000 miles of use, with a 150,000 mile allowable maintenance interval.

The certification requirements for engine-based rebuilds would depend on the type of equipment needing to be certified. If an equipment manufacturer wishes to certify an upgrade kit which brings an older version of an engine to a later model year configuration of the same engine which was already certified, certification testing may not be required. In such a case, the equipment manufacturer would be required to show, based on existing certification data, that an engine equipped with the upgrade kit complies with the retrofit/rebuild standard of 0.10 g/bhp-hr or achieves at least a 25 percent PM reduction on that engine model.

In order to prove that an equipment configuration results in a 25 percent or greater PM emission reduction, the equipment manufacturer could compare existing certification PM data for the new configuration to that of the old configuration, if both exist. Otherwise, (as for pre-1988 engine models when there was no certification PM standard) the equipment manufacturer would be required to test an engine over the FTP both before and after installing the equipment on the same engine. Based on the results, the equipment manufacturer must demonstrate compliance with

either the 0.10 g/bhp-hr PM standard or the 25 percent PM reduction. In addition to these requirements, the equipment manufacturer must assume emissions liability for their equipment for 290,000 miles, with an allowable maintenance interval of 150,000 miles.

For engine-based equipment that brings an engine to a configuration different than any previously certified engine configuration, the certification process would be similar to that described earlier for exhaust aftertreatment equipment. The equipment manufacturer would have to test an engine over the FTP both before and after installing the equipment. The emissions data from such testing must demonstrate compliance with the 0.10 g/bhp-hr PM standard or meet the 25 percent PM reduction requirement. For fuel conversion kits, the equipment manufacturer would be required to warranty the emissions performance for 290,000 miles, with an allowable maintenance interval of 150,000 miles.

To demonstrate compliance with the 25 percent reduction, the equipment manufacturer could also test a bus on a chassis dynamometer over a typical bus driving cycle. The manufacturer would have to test the bus both before and after installing the rebuild equipment. Based on the PM emissions measured during each test, the manufacturer would need to show a 25 percent reduction in PM emissions in order to qualify for certification under this provision. The equipment manufacturer would also be required to submit information which supports the test cycle as a typical urban bus driving cycle.

EPA requests comments on all of the certification provisions described above. Commenters are encouraged to submit alternative ideas for certification, including justification for such ideas.

4. Provisions for Buses Retrofit or Upgraded Before 1995

One area that was not discussed in the NPRM or in the comments EPA received is how to handle buses that already have particulate traps or alternative fuels technology installed prior to the start of the program. This would include buses which were retrofit with traps or alternative fuels, as well as buses purchased with the emission reduction technology already installed. A variety of technologies are currently being demonstrated in fleets across the country and it is likely that more buses will be equipped with such technologies before the start of the program in 1995. This becomes important under both options since these buses will likely be operating at PM levels below the levels

contained in Table 1 and may already be at or below the 0.10 g/bhp-hr PM level. Without including provisions for previously retrofit or upgraded buses, EPA's alternatives would be to either require certification testing over the FTP or require installation of certified equipment, both of which EPA believes to be unreasonable for the reasons discussed below and may act as a deterrent for installing emission reduction equipment voluntarily before the program begins.

EPA believes the purpose of including provisions for previously rebuilt or upgraded buses is to avoid placing new requirements on buses that are already equipped with technology that achieves significant emission reductions at the beginning of the program. There may be little or no emissions benefit from replacing an uncertified trap system with a certified system or installing a trap system on an alternatively fueled vehicle at time of rebuild, as would be required without these provisions. EPA believes that where buses have been purchased or retrofit before 1995 with such emissions reduction technology, these buses will meet the "best technology reasonably achievable" requirements of the program, as long as the engine and any aftertreatment equipment is in proper working condition and is providing a suitable level of particulate control. In general, trap equipped and alternatively fueled buses have been shown to operate at or below the 0.10 g/bhp-hr PM level in tests conducted by EPA and industry. Summaries of EPA's test results have been placed in the public docket for this rulemaking (EPA documents "EPA Testing of a Methanol-Fueled Detroit Diesel Corporation 6V-92TA Diesel Bus Engine" and "Heavy-Duty Engine Testing Report, Donaldson Dual Trap Oxidizer System, Test Results—1990"). In addition, Detroit Diesel Corporation has certified a 6V92TA methanol fueled engine which would meet the 0.10 g/bhp-hr PM standard and is in the process of certifying a trap equipped engine that is expected to meet the 0.10 g/bhp-hr PM standard.

Furthermore, certification testing for such equipment may not be practical given the small volumes and the potential variety of system configurations, and the fact that such equipment has already been installed. Also, it is unclear who would be responsible for such testing even if it were required. Finally, EPA does not want to discourage bus operators from installing equipment which lowers the PM level of their buses. Without such provisions, bus operators will be less

likely to install equipment before 1995 if they may be required to replace the equipment once the program begins in 1995.

Since most of the technologies currently being used have not been certified, EPA must estimate the PM level at which these previously retrofit buses are operating based on the testing that has been conducted. EPA's limited testing indicates that for buses previously equipped with particulate traps or converted to alternative fuels, a PM level of 0.10 g/bhp-hr can reasonably be expected. (As mentioned above, EPA memos summarizing the results from EPA's testing of a trap equipped bus, and a methanol-fueled diesel bus engine have been placed in the public docket for this rulemaking.) In addition, comments received from the Manufacturers of Emission Controls Association and ICI Products on particulate traps and alternatively-fueled vehicles support such an assumption. EPA requests any test data on the emission performance of retrofit buses currently in-use that will further help determine the validity of this assumption.

Under Option 1, bus operators would not be required to retrofit alternative fueled buses or replace existing trap systems at time of rebuild if their bus could comply with the provisions described below. Under Option 2, bus operators would use the engine's original certification PM level as the pre-rebuild PM level in order to calculate their target level for a fleet (TLF) as usual. However, the bus operator could now assume a PM level of 0.10 g/bhp-hr for buses that comply with the provisions described below when calculating their fleet level attained (FLA) of PM emissions. In effect, this gives the bus operator appropriate credit for a retrofit done before the beginning of the retrofit/rebuild program.

Even though EPA would not require certification testing over the FTP for such previously retrofit systems/engines as it would require for new retrofit equipment, EPA is considering requiring that in order for a bus to take advantage of these provisions, that the bus should not exhibit any visible emissions during normal operation. (To require certification over the FTP for such buses would not be practical and would be very expensive since a bus operator would have to remove its buses from operation and ship the engine to one of the few test laboratories capable of performing the heavy-duty FTP.) EPA would use a stall speed test to determine whether visible emissions occur during normal operation as

described below. While opacity does not exactly correlate to PM emissions measured over the FTP cycle, visible emissions are a signal that a problem exists with a trap-equipped bus or an alternatively-fueled bus. Visible emissions occur at an opacity level of about four percent.

One transit operator that has done considerable opacity testing found that exhaust from a trap equipped bus often could not be read on an opacity meter while the same bus without the trap registers about ten percent peak opacity during a stall test. The engine that was tested had a certification engine-out PM level without the trap of 0.30 g/bhp-hr. One comment received by EPA on the September 1991 NPRM and supported by transit operators in discussions with EPA indicated that a general threshold for visible emissions is about 0.25 g/bhp-hr. The reader is directed to the EPA memorandum, "Opacity of Urban Bus Exhaust During a Stall Speed Test," contained in the public docket for this rulemaking for a summary of EPA's discussions with transit operators concerning the stall speed test.

Again, EPA recognizes that smoke is an indication of high PM emissions but a direct correlation to a specific PM level may not be made in all cases. However, based on the limited data above, EPA feels a smoke test may be a useful tool for these provisions and also for enforcement where no other testing is reasonably available for such purposes. Given the complexity of trap systems and alternative fuels conversions, and given the current cost of such systems, EPA does not expect less efficient systems to be offered for sale before the program starts as a way of taking advantage of the provisions for buses retrofit prior to 1995. EPA requests comments on the use of opacity testing in this program including any data that would help EPA determine its usefulness. EPA also requests comments on the likelihood that emission control equipment installed on buses retrofit before 1995 would degrade in a manner that would allow exceedance of the 0.10 g/bhp-hr level without failing the opacity test.

If buses do exhibit visible emissions, EPA would not assume that they meet the best technology reasonably achievable, and the buses would not be covered by the provisions described above. The bus operator would be required to assume that the bus is operating at the original certification level for purposes of determining compliance with Option 1 or calculating its FLA under Option 2.

For purposes of determining whether or not a bus complies with the requirements of these provisions and can be assumed to be operating at a PM emission level of 0.10 g/bhp-hr, a visual opacity check would be performed over a short test procedure commonly known in the bus industry as a stall speed test. (As described in the enforcement section, EPA could perform the stall speed test during an audit on such buses to confirm compliance with these provisions.) This test procedure, found in most bus maintenance and transmission manuals, is currently used as a check of the engine and transmission. It is usually run after engine tuneup, engine or transmission repair, or whenever the engine appears to be operating at less than peak efficiency. It has also been developed for use as an emissions short test in an effort to correlate a short test with the FTP cycle.² EPA believes that this test is a reasonably simple way to simulate a fully loaded bus pulling away from a curb, which is generally when the worst PM emissions would be expected to occur.

The test consists of first securing the coach using the brakes and blocking the vehicle and then, with the transmission in drive, depressing and accelerator to wide open throttle and loading the engine by "stalling" the transmission. Stall speed is the maximum engine RPM, with transmission engaged and the bus remaining stationary. There are safety precautions and precautions to protect the engine and transmission (given in the maintenance manual) which also must be followed. EPA would not run the test during unusual operating times such as right after a cold start or after an unusually long period of engine idle when trap equipped buses have been known to have brief visible emissions due to reasons other than trap failure. EPA requests comments on the use of this test procedure and suggestions on ways to best tailor it to suit this program, preferably supported by data.

At time of rebuild the bus operator would have a choice of installing certified equipment or continuing to use the previously installed equipment. Under these provisions, the bus operator can assume a level of 0.10 g/bhp-hr for these buses even if no certified equipment is installed, provided no visible emissions occur during the stall speed test. If a bus operator chooses to continue to use the previously installed equipment, then the general emission

² "Development of an I/M Short Emissions Test for Buses", David M. Human and Terry L. Ullman, SAE paper 920727.

performance of the equipment would be the bus operator's responsibility. This responsibility would continue until either certified equipment was installed or the bus was retired.

EPA believes that a visual check of PM emissions could be useful even though it does not guarantee that the bus meets the 0.10 g/bhp-hr PM level. There will be relatively few buses to which these provisions apply. EPA believes that even if such buses do exceed the 0.10 g/bhp-hr PM level, these exceedances would not likely be enough to justify the replacement of working equipment with new certified equipment. EPA requests comments on all aspects of the above provisions for buses retrofitted before 1995. EPA is especially interested in comments on the use of the stall test and opacity as a performance check. Commenters should provide data to support their comments where possible.

These provisions also would apply to 1993 MY buses that must comply with a new vehicle PM standard of 0.10 g/bhp-hr. These buses will likely be certified and sold with aftertreatment technology. At time of rebuild, EPA would not require the replacement of such equipment under these provisions. Fleet operators would likely check the equipment to make sure it was mechanically sound and, based on this inspection, make a decision on whether or not to replace components or entire systems.

Buses with engines that have been upgraded to a later certified engine configuration before January 1, 1995 could also be covered under these provisions. EPA would assume that such buses were operating at the certification level of the later model year engine configuration for purposes of determining compliance with Option 1 or 2. For example, a 1982 Detroit Diesel 6V92TA engine upgraded to the 1989 6V92TA configuration would be assumed to be operating at the PM level of the 1989 configuration. Buses that are equipped with upgrade kits that are covered under these provisions would not be subject to the stall test described above. However, the bus operator would be responsible for maintaining the engine at the upgraded configuration until the bus is retired.

5. Enforcement

EPA believes that the enforcement provisions of section 203(a)(5) give EPA considerable discretion to determine which persons are subject to liability for violations of section 219. Unlike the enforcement provisions for new vehicles, which specify which actors are liable for violations (generally

manufacturers), section 203(a)(5) prohibits any person from violating section 219. Given this discretion, EPA must determine which persons should be held liable for violations of the retrofit/rebuild program.

For enforcement of the retrofit/rebuild program, EPA believes the liability falls onto two groups. Equipment manufacturers would be responsible for the emissions performance of their equipment while bus operators would be responsible for meeting the retrofit/rebuild program requirements detailed in either Option 1 or Option 2.

Equipment manufacturers would be responsible for submittal of certification data for their equipment certification, as described above, as well as providing instructions on how to install and properly maintain the equipment. The equipment manufacturer would also be required to assume liability for equipment that is properly installed and maintained as described in the instructions. Therefore, if EPA determines that the bus operator properly installed and maintained the equipment, and the equipment fails to comply with the provisions contained in today's notice, liability would rest on the equipment manufacturer.

For bus operators, the September 1991 NPRM contained proposed regulations for the enforcement of the retrofit/rebuild program. The proposed regulations detailed the records that bus operators would be required to maintain under the program. These records included purchase records, receipts, and part numbers for parts and components used in the rebuilding of urban bus engines. Under both of the retrofit/rebuild program options contained in today's notice, EPA foresees a similar means of enforcement. For the purpose of showing compliance with the retrofit/rebuild program, bus operators would be required to maintain the above information until all 1993 and earlier urban buses have been retired from their fleet.

EPA is also considering expanding the use of the stall speed test discussed in the previous section as an enforcement check for all buses that are retrofit with equipment certified to the 0.10 g/bhp-hr PM level. EPA received comments supporting the use of a general opacity test as an enforcement tool for this program. During an audit of a bus operator, EPA could request that a stall test be performed on any bus that has been rebuilt with equipment certified to the 0.10 g/bhp-hr PM standard to determine whether the retrofit/rebuild equipment is operating properly. EPA believes the stall test may be a more effective enforcement tool compared to

testing an engine and retrofit system over the FTP transient cycle to determine if the retrofit equipment is meeting the 0.10 g/bhp-hr PM standard. As noted earlier, testing a bus engine over the heavy-duty engine FTP is not very practical on a large scale since it requires the removal of the engine from the bus and shipping it to a test laboratory. EPA would expect that failure of the stall test would lead to a determination of the cause of failure and liability. EPA requests comment on whether or not to expand the use of the stall test in this way.

Under the retrofit/rebuild program, bus operators would not be required to submit information to EPA stating the option with which they are complying. In fact, bus operators would be allowed to switch back and forth between options. However, a bus operator cannot switch to an option unless it can show that it has been in complete compliance with the requirements of that option for all previous years of the program, as well as the current year.

Transit operators will be required to keep records on equipment purchases and histories of individual buses subject to the requirements as described in the NPRM for this program. If upon inspection of a bus operator's records, EPA finds that the bus operator is not in compliance with one of the options described in today's notice, the bus operator would be held liable. As stated in section 205(a) of the Clean Air Act, any person who violates the provisions of the urban bus retrofit/rebuild program shall be subject to a civil penalty of not more than \$25,000 per violation. For Option 1, EPA would consider each bus that is rebuilt without installing the appropriate equipment to be a separate violation, subject to a separate \$25,000 penalty. For Option 2, if a fleet is in violation of its TLF, EPA would make a determination of the minimum number of buses that would need to be retrofitted or rebuilt in order to comply with the TLF. The bus operator would be subject to a separate \$25,000 penalty for each of these buses that would need to be retrofitted or rebuilt. EPA specifically requests comments on the enforcement provisions contained in today's notice.

B. HDE Standards Useful Life Requirements

As noted above, the September 1991 NPRM also proposed two new emissions standards as required by the Clean Air Act. First, EPA proposed a PM standard for 1994 and later MY urban buses. Second, EPA proposed a NO_x standard for 1998 and later MY heavy-duty

engines. The NPRM did not directly address the useful life requirements for the new standards. As a result, the requirements would have been the same as for the current HDE standards. The current useful life requirements are eight years for all HDEs, or 110,000 miles for light HDEs, 185,000 miles for medium HDEs, and 290,000 miles for heavy HDEs.

However, a provision of the Clean Air Act Amendments of 1990 requires that the useful life provision for these new urban bus and HDE standards be revised. Section 202(d)(1) of the Clean Air Act, as amended, requires that for light-duty vehicles, light-duty vehicle engines and light-duty trucks, any requirement that first becomes applicable after the enactment of the Amendments must mandate a useful life of ten years or 100,000 miles, whichever occurs first, unless the Clean Air Act specifies another useful life. Moreover, section 202(d)(2) requires that regulations prescribing useful life for any other motor vehicle engines (except motorcycles), including HDEs and urban buses, shall be the same period as that required in paragraph 202(d)(1) " * * * unless the Administrator determines that a period of use of greater duration or mileage is appropriate in lieu thereof." In previous rulemakings, EPA has determined that HDEs would be subject to a useful life requirement for mileage greater than 100,000 miles (i.e., the mileage requirements of 110,000 miles, 185,000, and 290,000 miles mentioned above). However, EPA's previous rulemakings had set the duration of the useful life period for HDEs at eight years, which is less than the ten years now required by section 202(d)(2). In order to comply with the revised Clean Air Act, EPA is proposing to extend the useful life requirements for the 1994 PM standard for urban buses and the 1998 NO_x from eight years to ten years, while retaining the current useful life mileage provisions.

The emission standards already in place for HDEs will not be affected by this proposed change in HDE useful life. The Clean Air Act states that the revised useful life requirements are only for new standards promulgated after the enactment of the 1990 Amendments. Therefore, the only HDE emissions standards which would be affected at this time are the proposed 1994 and later MY urban bus PM standard and the proposed 1998 and later HDE NO_x standard. EPA is not proposing to apply the useful life change to the proposed

1993 MY bus PM standard, also contained in the September 24, 1991 NPRM. EPA believes this is justified because the 1993 bus PM standard is not a new standard, but rather, it expands the applicability of the existing 1993 MY urban bus PM standard to a slightly larger group of buses for only one year.

III. Public Participation

In order to provide interested parties with sufficient time for the review of today's notice prior to the public workshop, the agency distributed advance copies to a variety of groups that have expressed interest in the retrofit/rebuild program in the past.

EPA is holding a public workshop on this notice and reopening the comment period for this rulemaking in order to facilitate a better understanding of the proposals and to provide the public with the maximum opportunity for input in developing the final rule. Comments are invited on all of the areas described in today's notice. For those submitting comments, whenever possible, full supporting rationale, data, and detailed analyses should be submitted to allow EPA to make maximum use of the comments.

At the workshop, EPA will make a presentation highlighting the options and information contained in today's notice. After EPA's presentation, attendees will be encouraged to ask questions and make oral presentations. Any person desiring to present testimony at the public workshop is asked to notify the contact person listed above of such intent at least seven days before the workshop. The contact person should also be provided with an estimate of the time required for the presentation of the testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the workshop to schedule the order of testimony.

EPA suggests that a sufficient number of copies of the statement or material for presentation be brought to the workshop for distribution to the audience. In addition, it would be helpful for EPA to receive an advance copy of any statement or material for presentation before the scheduled workshop date. The official record will be kept open for 30 days following the workshop to allow submission of rebuttal and supplementary testimony.

Mr. Richard D. Wilson, Director of the Office of Mobile Sources, will be the presiding officer at the workshop. The workshop will be conducted informally,

and technical rules of evidence will not apply. A court reporter will be present at the workshop to make a transcript of the proceedings and a copy will be placed in the docket. Anyone desiring a copy of the transcript should make individual arrangements with the court reporter at the time of the workshop.

Dated: July 15, 1992.

Jerry Kurtzweg,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-17660 Filed 7-24-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Below 1 GHz Negotiated Rulemaking Advisory Committee; Schedule of Meetings

July 23, 1992.

AGENCY: Federal Communications Commission.

ACTION: Notice of Advisory Committee Establishment, Notice of Advisory Committee Meetings.

SUMMARY: The Federal Communications Commission has established the Below 1 GHz LEO Negotiated Rulemaking Committee (Committee). This Committee will provide expert advice and recommendations on technical matters related to the establishment and regulation of a low-Earth orbiting satellite service in the frequency bands below 1 GHz (little LEOs). The establishment of this Committee is necessary and in the public interest.

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice also advises interested persons of the initial and proposed subsequent meetings of the Committee.

DATES: August 10, 1992 at 9:30 a.m., August 18, 1992 at 9:30 a.m., August 24, 1992 at 9:30 a.m., September 1, 1992 at 9:30 a.m., September 8, 1992 at 9:30 a.m., September 16, 1992 at 9:30 a.m.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., room 856, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: The Committee was established by the Federal Communications Commission to bring together present and future applicants, and present users of the affected frequency bands, to discuss and to recommend approaches to resolve

technical sharing and coordination issues involved in the establishment and regulation of a new satellite service. The FCC has solicited nominations for membership on the Committee pursuant to the Negotiated Rulemaking Act of 1990, Public Law 101-648, November 28, 1990, and will select members to achieve a balanced membership given the purpose and objectives of the Committee. See Public Notice in CC Docket No. 92-76, 57 FR 18857 (May 1, 1992), 7 FCC Rcd 2370 (1992).

The agenda for the first meeting is as follows:

1. Introductory Comments: Gerald P. Vaughan, Deputy Chief, Common Carrier Bureau; Thomas S. Tycz, Designated Federal Officer and Deputy Chief, Domestic Facilities Division.

2. Selection of Facilitator.

3. Approval of Agenda.

4. Committee Charter.

5. Committee Membership.

6. Work Program.

- Tasks

- Schedule

- Report.

7. Organization of Work

- Identification of Available Information

- Informal Working Groups.

8. Agenda for Next Meeting.

9. Other Business.

At subsequent meetings, the Committee will seek to determine and to recommend approaches to resolve the domestic sharing problems among the present and future little LEO applicants, as well as among the little LEO satellite service networks and existing satellite service networks in the affected frequency bands. The Committee will also discuss international sharing and coordination issues.

Members of the general public may attend the meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. There will be no place oral participation, but the public may submit written comments to Thomas S. Tycz, the Committee's Designated Federal Officer, before the meeting.

FOR FURTHER INFORMATION CONTACT: Thomas S. Tycz, Designated Federal Officer of the Below 1 GHz LEO Negotiated Rulemaking Committee, and Deputy Chief, Domestic Facilities Division, Federal Communications Commission, at (202) 634-1817.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

[FR Doc. 92-17766 Filed 7-24-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 24

[FHWA Docket No. 92-28]

RIN 2125-AD02

Uniform Relocation Assistance and Real Property Acquisition Regulation for Federal and Federally Assisted Programs

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to the President's memorandum of January 28, 1992, on the subject of "Reducing the Burden of Government Regulation," the FHWA, as lead agency for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) 42 U.S.C. 4601-4655, proposes several amendments to the governmentwide rule implementing the Uniform Act found at 49 CFR part 24. The amendments would enhance the relocation assistance benefits available to displaced businesses, and replace the language in subpart G, relating to the application or certification, with a simplified regulatory provision. Also, a proposed technical amendment would conform the language of one paragraph to the two statutes cited therein.

DATES: Comments must be received on or before September 10, 1992.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 92-28, Federal Highway Administration, room 4232, HCC-10, Office of Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope.

FOR FURTHER INFORMATION CONTACT: Roger C. Kezar, Chief, Policy Development Branch, Office of Right-of-Way, HRW-11, (202) 366-2021; or Reid Alsop, Office of Chief Counsel, HHC-31, (202) 366-1371. The address is Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Background

The governmentwide single rule [49 CFR part 24] implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), 42 U.S.C. 4601 *et seq.*, was published in the *Federal Register* on March 2, 1989 (54 FR 8912). During the slightly more than three years that this comprehensive regulation has been in effect, the FHWA, as the lead agency responsible for the development and issuance of this regulation with the active cooperation of the Department of Housing and Urban Development [HUD] and sixteen other Federal agencies, has become aware of the need to amend the regulation for purposes of clarification and simplification.

On January 28, 1992, the President issued a Memorandum For Certain Department and Agency Heads entitled "Reducing the Burden of Government Regulation" which called upon those Departments and agencies to review their existing regulations, in order to determine whether changes should be made to promote economic growth, create jobs, or eliminate unnecessary costs or other burdens on the economy.

While the monetary relocation assistance benefits provided in the regulation are primarily established by the Uniform Act, there is some administrative discretion, particularly with regard to determining moving and related expenses provided to business by section 202 of the Uniform Act (42 U.S.C. 4622).

The FHWA believes, as a result of its review of this regulation, that the proposed amendments would enhance the relocation assistance benefits provided to displaced businesses, thus increasing their chances of a successful relocation, and would reduce the regulatory burden imposed on such businesses as well as on State and local governments implementing the regulation.

In addition to the proposed amendments that would assist displaced businesses, the FHWA also proposes (1) a technical amendment of § 24.2(g)(2)(x) to eliminate a conflict with the two statutes cited therein and (2) to revise §§ 24.602 and 24.603, relating to certification application and monitoring, to simplify these provisions.

This NPRM is limited in scope to the amendments proposed. The FHWA intends to continue to cooperate with the HUD and other Federal agencies in making these proposed amendments. We also anticipate identifying additional changes to this regulation as a result of that cooperation, and these

changes will be proposed for public comment as they are identified.

Section-by-Section Analysis

In § 24.2(g)(2)(x) there is a conflict with the two statutes it cites. Those statutes apply only to home owners and their replacement housing benefits. The regulation, however, covers all persons and all relocation benefits and therefore could result in a denial of benefits to tenants and businesses covered by the Uniform Act. The proposed revision will conform the regulation to the statutory limitations.

The definition of "small business" in § 24.2(t) has been a matter of concern because it would appear to exclude from eligibility for the reestablishment payment certain businesses [coin operated car washes and laundromats, rental properties, and storage facilities] where an employee is not present at all times. The purpose of the requirement that there be at least one employee on site was to emphasize that there must be ongoing economic activity at the displacement site in order to qualify for reestablishment payments. The FHWA has advised, in response to specific inquiries, that a coin-operated facility or a storage building visited by employees of the business on a regular basis, daily or at least weekly, would qualify the business for reestablishment expenses. This would also apply to an occupied rental property at which the owner maintains personal property and for which rental property the owner is responsible for maintenance. The proposed change would make it clear that such businesses are included within the definition of "small businesses" and would thus be eligible for the reestablishment payment of up to \$10,000 provided by § 24.304.

Several changes to § 24.304 are proposed that would remove regulatory limitations upon receipt of the reestablishment payment by small businesses, farms, and nonprofit organizations. The first paragraph of § 24.304 would be amended to replace the conditional language "may be eligible" with "is entitled," thus putting the qualification for the receipt of payment in a more positive light. The word "may" would be removed from paragraph (a) as misleading and unnecessary. The monetary limitations upon payment for certain specific costs contained in paragraphs (a)(3), (a)(8), and (a)(10) would be removed, along with the related waiver provision in paragraph (a)(13). While removal of these restrictions was recommended by a number of the commenters responding to the July 21, 1988, NPRM on part 24 (FHWA Docket No. 87-22), the FHWA

elected to retain the dollar limits as cost controls for expenses believed most vulnerable to abuse. Experience, the \$10,000 limit imposed by the Uniform Act itself, and the limited number of waivers requested, together with the general requirement that the displacing agency determine if the expense claimed is reasonable and necessary, indicate the dollar limits are not serving a worthwhile purpose. Further, it is unnecessarily burdensome to both the displacing agency and the Federal funding agency to process a waiver where the displacing agency has already made a finding that the expense claimed is reasonable and necessary. It is also proposed that paragraph (b)(3), concerning refurbishments at the replacement site for aesthetic purposes, be removed as unnecessarily restrictive to displaced small businesses, farms, and nonprofit organizations, as well as being unnecessarily burdensome on the displacing agency.

Subpart G would be amended by removing all of the present text of §§ 24.602 and 24.603 and substituting an abbreviated process for obtaining the certification application and proceeding to certification approval. In the more than five years since certification procedure was authorized by the amendments to the Uniform Act, not a single agency has sought to obtain acceptance of its "certification."

Cross References

Part 24 of title 49, CFR, constitutes the governmentwide regulation implementing the Uniform Act. The regulations of seventeen other Federal Departments and agencies contain a cross reference to this part in their regulations, and the change proposed in this notice of proposed rulemaking would be directly applicable to the relocation assistance activities of these departments and agencies. Those departments and agencies, and the parts of the Code of Federal Regulations which contain a cross reference to this part, are listed below:

Department of Agriculture
7 CFR part 21
Department of Commerce
15 CFR part 11
Department of Defense
32 CFR part 2509
Department of Education
34 CFR part 15
Department of Energy
10 CFR part 1039
Environmental Protection Agency
40 CFR part 4

Federal Emergency Management Agency
44 CFR part 25
General Services Administration
14 CFR part 105-51
Department of Health and Human Services
45 CFR part 15
Department of Housing and Urban Development
24 CFR part 42
Department of the Interior
41 CFR part 114-50
Department of Justice
41 CFR part 128-16
Department of Labor
29 CFR part 12
National Aeronautics and Space Administration
14 CFR part 1208
Pennsylvania Avenue Development Corporation
36 CFR part 904
Tennessee Valley Authority
18 CFR part 1306
Veterans Administration
38 CFR part 25

Consequently, the proposed change in this NPRM would be directly applicable to the relocation assistance activities of those seventeen departments and agencies. The proposed change would also apply to other agencies within DOT that are covered by the Uniform Act.

RULEMAKING ANALYSES AND NOTICES

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a major rule under Executive Order 12291, nor is it a significant rule under the policies and procedures of the Department of Transportation relating to regulations. The rulemaking would not affect the level of funding available in Federal or federally assisted programs covered by the Uniform Act, or otherwise have a significant economic impact, so that a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354), the agency has evaluated the effects of this rule on small entities and hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Environmental Impacts

The FHWA has also analyzed this action for the purpose of the National

Environmental Policy Act (42 U.S.C. 4321 et seq.), and has determined that this action would not have any effect on the human environment.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This action, in effect, both clarifies and simplifies current regulatory requirements.

Paperwork Reduction Act

This proposed rule is not subject to the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), since it does not require the collection or retention of any new data.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 24

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements, Transportation.

In accordance with the foregoing, the FHWA proposes to amend part 24 of title 49, Code of Federal Regulations, as set forth below.

PART 24—[AMENDED]

1. The authority citation for 49 CFR part 24 continues to read as follows:

Authority: 42 U.S.C. 4601 et seq.; 49 CFR 1.48(cc).

2. In § 24.2, paragraphs (g)(2)(x) and (t) are revised to read as follows:

§ 24.2 Definitions.

(g) * * *

(2) * * *

(x) An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of Interior under Pub. L. 93-477 or Pub. L. 93-303, except that such owner remains a displaced person for purposes of subpart D of this part; or

(t) *Small business.* A business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of § 24.304.

24.304 [Amended]

3. Section 24.304 is amended by revising the introductory text of the section, the introductory text of paragraph (a), paragraphs (a)(3), (a)(8), and the introductory text of (a)(10); by removing paragraph (a)(13); and by removing paragraph (b)(3), then redesignating paragraphs (b)(4) and (b)(5) as paragraphs (b)(3) and (b)(4), respectively. As revised, § 24.304 reads as follows:

§ 24.304 Reestablishment expenses—non-residential moves.

In addition to the payments available under § 24.303 of this subpart, a small business, as defined in § 24.2(t), farm or nonprofit organization is entitled to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(a) *Eligible expenses.* Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They include, but are not limited to, the following:

(3) Construction and installation costs for exterior signing to advertise the business.

(8) Advertisement of replacement location.

(10) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:

4. Section 24.602 is revised to read as follows:

§ 24.602 Certification application.

An agency wishing to proceed on the basis of a certification may request an application for certification from the lead agency [Director, Office of Right-of-Way, HRW-1, Federal Highway Administration, 400 Seventh St. SW., Washington, DC 20590]. The completed application for certification must be approved by the governor of the State,

or the governor's designee, and must be coordinated with the Federal funding agency, in accordance with application procedures.

5. In § 24.603, paragraph (d) is revised to read as follows:

§ 24.603 Monitoring and corrective action.

(d) The lead agency may require periodic information or data from affected Federal or State agencies.

Issued on: July 20, 1992.

T.D. Larson,
Administrator.

[FR Doc. 92-17639 Filed 7-24-92; 8:45 am]

BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Chapter X

[Ex Parte No. 462]

Exemption of Demurrage From Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; extension of comment due date.

SUMMARY: By decision served April 21, 1992 (57 FR 14688, April 22, 1992), the Commission requested comments on a proposal to exempt demurrage from certain regulation. By decision served May 12, 1992 (57 FR 20443, May 13, 1992), the Commission prescribed a comment due date of July 21, 1992. By petition filed July 13, 1992, The National Industrial Transportation League (NITL) and The Association of American Railroads (AAR) jointly request a six-month extension until January 21, 1993, to file comments. NITL and AAR state additional time is needed to provide them an opportunity to discuss this proceeding and, following NITL's annual meeting in November, to attempt to produce a joint document for submission to the Commission. In view of the Commission's interest in expediting review of deregulatory proposals only a 60-day extension will be permitted. Consistent with the July 15, 1992, filing by National Grain and Feed Association, the Commission encourages discussion of issues among all willing participants.

DATES: Initial comments are due on September 21, 1992.

ADDRESSES: Send an original and 15 copies of comments referring to Ex Parte No. 462 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder: (202) 927-5610. [TDD for the hearing impaired: (202) 927-5721.]

Decided: July 21, 1992.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-17668 Filed 7-24-92; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 57, No. 144

Monday, July 27, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

National Park Service

Grand Canyon Railway, Inc., Passenger Railway Service, Grand Canyon Airport to Grand Canyon Village; Availability of Draft Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of Agriculture, Forest Service, and the Department of the Interior, National Park Service, joint lead agencies, have prepared a draft environmental impact statement to assess the impacts of the provision of initiating passenger rail service from Grand Canyon Airport, Tusayan, Arizona, to the Maswick Transportation Area in Grand Canyon Village, Grand Canyon National Park.

The proposal, Alternative A, would provide for the construction of 5.4 miles of new railway line on the national forest, with 1.1 miles on an old rail line alignment, and use of existing rail line within the national park. One wash would need to be crossed within the airport property. Additional features are the construction of two depots, 75 acres of parking, a road for maintenance, and the addition of storage tanks for fuel, water and wastewater. A maximum of eight (8) trips per day would be generated between the airport and Maswick. Interpretive activities and visitor orientation to the park and national forest would be integrated into the service.

In addition to the proposal, five alternatives are analyzed. Alternatives B, C and D all provide for the proposed passenger service but vary in the track alignment and length to be constructed, the amount of national forest lands

needed and generally increase the number of washes that would be crossed. In addition, Alternative D provides for a single depot. Alternative E is a non-rail alternative, utilizing a shuttle bus system in conjunction with a parking area outside the park. Alternative F is the no action alternative.

Comments on the draft environmental impact statement should be directed to the Forest Supervisor, Kaibab National Forest, 800 South State Street, Williams, AZ 86048, telephone number (602) 635-2681. Comments must be received no later than September 30, 1992. Requests for additional information and/or copies of the statement should be directed to the above address or to the Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon National Park, AZ 86023, telephone number (602) 638-7701.

Copies of the draft statement are available for inspection at the park headquarters, Forest Supervisor's office, and libraries at Flagstaff, Williams, Northern Arizona University, and Arizona State University. Copies are also available at the following addresses: Western Regional Office, National Park Service, Attn: Division of Planning, Grants and Environmental Quality, 600 Harrison Street, suite 600, San Francisco, CA 94107-1372, and at the Regional Office, Southwest Region, USDA Forest Service, 517 Gold Ave. SW., Albuquerque, NM 87102.

Dated: June 1, 1992.

William M. Lannan

Forest Supervisor, Kaibab National Forest.

Dated: June 9, 1992.

W.H. Patton,

Regional Director, Western Region.

[FR Doc. 92-17646 Filed 7-24-92; 8:45 am]

BILLING CODE 3410-11-M and 4310-70-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[DA-91-017-A]

Milk for Manufacturing Purposes and Its Production and Processing; Requirements Recommended for Adoption by State Regulatory Agencies

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of intent to amend.

SUMMARY: This document proposes to amend the recommended manufacturing milk requirements (Recommended Requirements) by incorporating provisions for an expanded drug residue monitoring program. The proposal would provide State regulatory agencies and the dairy industry with guidance in carrying out sampling, testing and monitoring activities relating to drug residues in manufacturing grade milk. The proposal also would include a provision for a State-sanctioned penalty to be imposed on a manufacturing grade milk producer who ships milk testing positive for drug residue. In addition, the proposal would provide guidelines for the storage and proper labeling of drugs used on the dairy farm.

The proposal to expand the drug residue monitoring program was initiated at the request of the National Association of State Departments of Agriculture (NASDA) and was developed in cooperation with NASDA, the Food and Drug Administration (FDA), dairy trade associations and producer groups.

DATES: Comments should be filed by August 26, 1992.

ADDRESSES: Comments should be sent to: Director, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2968-S, P.O. Box 96456, Washington, DC 20090-6456. They will be made available for public inspection at the Dairy Division in room 2750-S during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michael I. Hankin, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/Dairy Division, room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-7473.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "non-major" under the criteria contained therein.

Under the authority of the Agricultural Marketing Act of 1946, the U.S. Department of Agriculture maintains a set of model regulations relating to quality and sanitation requirements for the production and processing of manufacturing grade milk. These

recommended requirements are available for adoption by the various States. The purpose of the model requirements is to promote, through State adoption and enforcement, uniformity in State dairy laws and regulations relating to manufacturing grade milk.

In July 1991, the Dairy Division of NASDA passed a resolution recommending that the manufacturing grade milk drug residue monitoring program be revised using the Grade A drug residue monitoring program as a prototype. The Grade A program is based on the requirement that the milk on every bulk milk pickup tanker be sampled and tested, prior to processing, for the presence of beta lactam drugs. In addition, the Grade A program provides for the temporary suspension of a producer's Grade A permit, or an equivalent penalty, in the case of a producer who ships milk testing positive for beta lactam drugs.

In order to establish an expanded manufacturing grade milk drug residue monitoring program, as requested by NASDA, this document proposes the following changes to the Recommended Requirements:

1. Provide that all marketed manufacturing grade milk be sampled and tested for the presence of beta lactam drugs

Currently, the Recommended Requirements provide for the testing of milk for antibiotics at a minimum frequency of four times in six months. The proposed revisions specify that all manufacturing grade milk intended for processing be sampled by the defined methods and tested for beta lactam drugs.

2. Provide that the testing of all marketed manufacturing grade milk be completed prior to processing.

Currently, the Recommended Requirements do not provide guidelines for the timely completion and reporting of antibiotic tests. The proposed revisions specify that testing be completed prior to processing the load of milk.

3. Define State regulatory agency and industry responsibilities for the implementation of the expanded drug residue monitoring program

The successful implementation of any regulatory program requires cooperation between State officials and industry personnel. In order for the State regulatory agency to adequately supervise and enforce the drug residue monitoring program, the dairy industry must maintain accurate records and

follow uniform procedures. The proposed revisions define the responsibilities of each party in the execution of this program.

The proposal requires the industry to notify the appropriate State regulatory agency of (a) each occurrence of a load sample testing positive for drug residue; (b) the identity of any producer whose milk causes a load sample to test positive for drug residue; and (c) the intended and final disposition of the load of milk represented in a sample testing positive for drug residue. Milk testing positive for beta lactams is to be disposed of in a manner that removes it from the human and animal food chain, unless reconditioned under FDA guidelines.

The proposal provides for the State regulatory agency to: (a) Monitor the industry's sampling and testing methods for accuracy, consistency, and thoroughness; (b) perform comparison milk sample testing to evaluate the plant's recorded results; (c) review the industry's records of response to a positive drug residue test; and (d) sanction penalties on producers who have shipped milk testing positive for drug residue.

4. Provide for a State-sanctioned penalty to be imposed on a manufacturing grade milk producer who ships milk testing positive for drug residue

In order to emphasize the importance of utilizing milk production methods that prevent drug residues in milk, the proposal requires that there be a State-sanctioned penalty imposed on a producer for each occurrence of shipping milk testing positive for drug residue.

Additionally, following a third violation of shipping milk testing positive for drug residue within a 12-month period, the appropriate State agency would initiate administrative procedures to suspend the producer's milk shipping privileges, according to that State's policy.

5. Require a producer who ships milk testing positive to participate in a milk-quality improvement educational program

After each occurrence of shipping milk testing positive for drug residue, a producer would be required to meet with a licensed veterinarian within 21 days to review the "Milk and Dairy Beef Quality Assurance Program." The "Quality Assurance Program" was developed by the Joint Liaison Committee of the American Veterinary Medical Association and the National Milk Producers Federation, with the cooperation and support of the USDA, the FDA, industry, and academia to help

milk producers identify and eliminate the causes of drug residues in milk.

6. Provide detailed guidelines for the labeling and storage of farm chemicals and animal drugs

A central element of the "Milk and Dairy Beef Quality Assurance Program" is the proper labeling and storage of drugs located in the milk production areas. The proposed revisions specify that the labeling of animal drugs used on manufacturing grade farms shall conform to federal regulations and that the drugs be stored according to intended use.

7. Mark other revisions and editorial changes in the Recommended Requirements to reflect the expansion of the current drug residue monitoring program

The proposal would require dairy plants to: (a) Test the milk of new and transfer producers for the presence of drug residues prior to acceptance of the milk at the plant; (b) retain drug residue test results for a minimum of 12 months; (c) include in a producer's records the results of drug residue tests for the preceding 12 months; and (d) instruct plants to provide fieldman assistance to farmers regarding drug residue issues.

8. Make revisions in the Recommended Requirements to update and clarify somatic cell testing requirements

Proposed changes include correcting the action level at which the Wisconsin Mastitis Test must be confirmed.

State regulatory agencies that are responsible for overseeing the sanitation requirements relating to the production and processing of farm separated cream are encouraged to include such cream in a drug residue monitoring program.

For the reasons set forth in the preamble, the Recommended Requirements which were published in the *Federal Register* issue of April 7, 1972 (37 FR 7046) and amended August 27, 1985 (50 FR 34726) are proposed to be amended as follows:

1. In sec. B2., paragraphs (i), (j) and (p) are revised to read as follows:

Sec. B2. Terms Defined

* * *

(i) *Producer.* The person or persons who exercise control over the production of the milk delivered to a plant, and who receives payment for this product. A "new producer" is one who is initiating the shipment of milk from a farm. A "transfer producer" is one whose shipment of milk from a farm is shifted from one plant to another plant. A "producer/processor" is one who

manufactures dairy products on the dairy farm entirely from his own milk, or from his own milk combined with milk from one or more other producers.

(j) *Dairy farm or farm.* A place or premise where one or more milking cows or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold, or offered for sale to a manufacturing plant.

(p) *Rejected milk.* Milk rejected from the market according to the provisions of sec. C5.

2. Sec. C1. is revised to read as follows:

Sec. C1. Basis

The quality classification of raw milk for manufacturing purposes from each producer shall be based on an organoleptic examination for appearance and odor, a drug residue test and quality control tests for sediment content, bacterial estimate and somatic cell count.

3. Sec. C5. is revised to read as follows:

Sec. C5. Rejected Milk

A plant shall reject specific milk from a producer if the milk fails to meet the requirements for appearance and odor (sec. C2.), if it is classified No. 4 for sediment content (sec. C3.), or if it tests positive for drug residue (sec. C12.).

4. Secs. C7. through C10. are revised to read as follows:

Sec. C7. Excluded Milk

A plant shall not accept milk from a producer if:

(a) The producer's initial milk shipment to a plant does not meet the requirements for acceptable milk (secs. C3. and C4.);

(b) The milk has been in a probational (No. 3) sediment content classification for more than ten calendar days (sec. C3.);

(c) The milk has been classified "Undergrade" for bacterial estimate for more than four successive weeks (sec. C4.);

(d) Three of the last five milk samples have exceeded the maximum somatic cell count level of 1,000,000 per ml. (sec. C11.);

(e) The producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test (sec. C12.); or

(f) The producer is delinquent in completing a review of the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian following

an occurrence of shipping milk testing positive for drug residue (sec. C12.).

Sec. C8. Quality Testing of Milk From Producers

(a) New producers.

(1) An examination and tests shall be made on the first shipment of milk from a new producer or from a producer resuming shipment to a plant after a period of non-shipment.

The milk shall meet the requirements for:

(i) "Acceptable milk" (secs. C2., C3., and C4.);

(ii) Somatic cell count (sec. C11.); and

(iii) Drug residue level (sec. C12.).

(2) Thereafter, each milk shipment shall meet the requirements of sec. C2., and shall be tested in accordance with the provisions of secs. C3., C4., C11., and C12.

(b) Transfer producers.

(1) An examination and test shall be made by the new buyer on the first shipment of milk from a transfer producer. The milk shall meet the requirements for:

(i) "Acceptable milk" (secs. C2., C3., and C4.);

(ii) Somatic cell count (sec. C11.); and

(iii) Drug residue level (sec. C12.).

(2) Thereafter, each milk shipment shall meet the requirements of sec. C2., and shall be tested in accordance with the provisions of secs. C3., C4., C11., and C12.

(3) In addition, the new buyer shall determine from the producer's records that:

(i) The milk is currently classified "acceptable" for bacteria and sediment;

(ii) Three of the last five consecutive milk samples do not exceed the maximum somatic cell count level requirements;

(iii) The last shipment of milk received from the producer by the former plant did not test positive for drug residue; and

(iv) Milk shipments currently are not excluded from the market due to a positive drug residue test.

(4) When a producer discontinues milk delivery at one plant and begins delivery at another plant for any reason, the new buyer shall not accept the first milk delivery until he has requested from the previous buyer a copy of the record of:

(i) The producer's milk quality tests covering the preceding 90 days;

(ii) The producer's drug residue test results for the preceding 12-month period; and

(iii) a statement of the farm certification status and date of certification, if so provided under State regulations.

(5) The previous buyer shall furnish the new buyer with such information within 24 hours after receipt of the request. A new buyer may accept a transfer producer's milk after making the request for records, but before receiving them, if he first confirms the producer's records verbally from the previous buyer. If verbal communication is used to ascertain the status of quality records, the new buyer shall send to the previous buyer, as soon as possible, a written confirmation of the conversation.

(6) If the new buyer fails to receive the quality records from the previous buyer, he shall report this fact to the appropriate State regulatory agency. The new buyer may then, alternatively, obtain from the producer a copy of the test results for sediment content, bacterial estimate, and somatic cell count for the preceding 90-day period and a copy of the drug residue test results for the preceding 12-month period. A farm inspection shall then be made to confirm or establish certification of the transfer producer's farm.

Sec. C9. Record of Tests

Accurate records of the results of the milk quality and drug residue tests for each producer shall be kept on file at the plant for a period of not less than 12 months. The record shall be available for examination by the regulatory agency.

Sec. C10. Field Service

A representative of the plant shall arrange to promptly visit the farm of each producer whose milk tests positive for drug residue, exceeds the maximum somatic cell count level, or does not meet the requirements for acceptable milk. The purpose of the visit shall be to inspect the milking equipment and facilities and to offer assistance to improve the quality of the producer's milk and eliminate any potential causes of drug residues. A representative of the plant should routinely visit each producer as often as necessary to assist and encourage the production of high quality milk.

5. Sec. C11. is revised to read as follows:

Sec. C11. Somatic Cell Count

(a) A laboratory examination to determine the level of somatic cells shall be made on each producer's milk at least four times in each six-month period at irregular intervals. Samples shall be analyzed at a laboratory approved by the State regulatory agency.

(b) A confirmatory test for somatic cells shall be done when a herd sample exceeds either of the following screening tests results:

(1) California Mastitis Test—Weak Positive (CMT 1).

(2) Wisconsin Mastitis Test—WMT value of 18 mm.

(c) The confirmatory test for somatic cells shall be performed by using one of the following procedures:

(1) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y-methyl green stain shall be used for goat milk.

(2) Electronic Somatic Cell Count.

(3) Optical Somatic Cell Count.

(d) The results of the confirmatory test for somatic cells shall be the official result.

(e) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

(1) The producer shall be notified with a warning of the excessive somatic cell count.

(2) Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 per ml., the appropriate regulatory authority shall be notified and a written warning notice given to the producer. The notice shall be in effect so long as two of the last four consecutive samples exceed 1,000,000 per ml.

(f) An additional sample shall be taken after a lapse of three days but within 21 days of the notice required in paragraph (e)(2) of this section. If this sample also exceeds 1,000,000 per ml., subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the appropriate State regulatory agency when an additional sample of herd milk is tested and found satisfactory. The producer shall be assigned a full reinstatement status when three out of four consecutive somatic cell count tests do not exceed 1,000,000 per ml. The samples shall be taken at a rate of not more than two per week on separate days within a three-week period.

6. New secs. C12., C13., C14., and C15. are added to read as follows:

Sec. C12. Drug Residue Level

(a) *Industry responsibilities.*

(1) *Sampling and testing program.*

(i) All milk shipped for processing or intended to be processed on the farm where it was produced shall be sampled and tested, prior to processing, for beta lactam drug residue. Collection, handling and testing of samples shall be

done according to procedures established by the appropriate State regulatory agency.

(ii) When so specified by the U.S. Food and Drug Administration (FDA), all milk shipped for processing, or intended to be processed on the farm where it was produced, shall be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. The random drug sampling program shall include at least four samples collected in at least four separate months during any six-month period.

(iii) When the Commissioner of the FDA determines that a potential problem exists with an animal drug residue or other contaminant in the milk supply, a sampling and testing program shall be conducted, as determined by the FDA. The testing shall continue until such time that the Commissioner of the FDA determines with reasonable assurance that the potential problems has been remedied.

(iv) The dairy industry shall analyze samples for beta lactams and other drug residues by methods evaluated by the Association of Official Analytical Chemists (AOAC) and accepted by the FDA as effective in determining compliance with established "safe levels" or tolerances. "Safe levels" and tolerances for particular drugs are established and amended by the FDA. The industry may employ on a temporary basis other test methods evaluated by the Virginia Polytechnic Institute and State University, or by other institutions using equivalent evaluation procedures, and determined to demonstrate accurate compliance results. These test methods may be used until they are evaluated by the AOAC and accepted or rejected by the FDA.

(2) *Individual producer sampling.*

(i) *Bulk milk.*

A milk sample for beta lactam drug residue testing shall be taken to each farm and shall include milk from each farm bulk tank.

(ii) *Can milk.*

A milk sample for beta lactam drug residue testing shall be formed separately at the receiving plant for each can milk producer included in a delivery, and shall be representative of all milk received from the producer.

(iii) *Producer/processor.*

A milk sample for beta lactam drug residue testing shall be formed separately according to paragraphs (a)(2) (i) and (ii) of this section for milk produced or received by a producer/processor.

(3) *Load sampling and testing.*

(i) *Bulk milk.*

A load sample shall be taken from the bulk milk pickup tanker after its arrival at the plant and prior to further commingling.

(ii) *Can milk.*

A load sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle.

(iii) *Producer/processor.*

A load sample shall be formed at the plant using a sampling procedure that includes all milk produced and received.

(4) *Sample and record retention.*

A load sample that tests positive for drug residue shall be retained according to guidelines established by the appropriate State regulatory agency. The records of all sample test results shall be retained for a period of not less than 12 months.

(5) *Industry follow-up.*

(i) When a load sample tests positive for drug residue, industry personnel shall notify the appropriate State regulatory agency immediately, according to State policy, of the positive test result and of the intended disposition of the shipment of milk containing the drug residue. All milk testing positive for drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines.

(ii) Each individual producer sample represented in the positive-testing load sample shall be singly tested as directed by the appropriate State regulatory agency to determine the producer of the milk sample testing positive for drug residue. Identification of the producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the appropriate agency, according to State policy.

(iii) Milk shipment from the producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue.

(b) *Regulatory agency responsibilities.*

(1) *Monitoring and surveillance.*

The appropriate State regulatory agency shall monitor the milk industry's drug residue program by conducting unannounced on-site inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the regulatory agency shall

review industry records for compliance with State policy. The review shall seek to determine that:

(i) Each producer is included in a routine, effective drug residue milk monitoring program utilizing AOAC-evaluated and FDA-approved methods to test samples for the presence of drug residue;

(ii) The regulatory agency receives prompt notification from industry personnel of each occurrence of a sample testing positive for drug residue, and of the identity of each producer identified as a source of milk testing positive for drug residue;

(iii) The regulatory agency receives prompt notification from industry personnel of the intended and final disposition of milk testing positive for drug residue, and that disposal of the load is conducted in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines; and

(iv) Milk shipment from a producer identified as a source of milk testing positive for drug residue completely and immediately ceases until a milk sample taken from the dairy herd does not test positive for drug residue.

(2) Enforcement.

(i) A penalty sanctioned by the State regulatory agency shall be imposed on the producer for each occurrence of shipping milk testing positive for drug residue.

(ii) The producer shall review the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian within 21 days after each occurrence of shipping milk testing positive for drug residue. A certificate confirming that the "Quality Assurance Program" has been reviewed shall be signed by the responsible producer and a licensed veterinarian. The appropriate State regulatory agency shall be notified after the program has been reviewed.

(iii) If a producer ships milk testing positive for drug residue three times within a 12-month period, the appropriate State agency shall initiate administrative procedures to suspend the producer's milk shipping privileges, according to State policy.

Sec. C13. Radionuclides

Composite milk samples from selected areas in each State should be tested for biologically significant radionuclides at a frequency which the regulatory agency determines to be adequate to protect the consumer.

Sec. C14. Pesticides and Herbicides

Composite milk samples should be tested for pesticides and herbicides at a

frequency which the regulatory agency determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits.

Sec. C15. Added Water

Milk samples from each producer should be tested for added water at a frequency which the regulatory agency determines is adequate to prevent the addition of water to the milk.

7. Sec. D5.(e) is revised and D5.(f) is added to read as follows:

Sec. D5. Milkhouse or Milkroom

* * * * *

(e) The milkhouse or milkroom shall be kept clean and free of trash. Animals and fowl shall not be allowed access to the milkhouse or milkroom at any time.

(f) Farm chemicals and animal drugs.

(1) Animal biologics and other drugs intended for treatment of animals, and insecticides approved for use in dairy operations, shall be clearly labeled and used in accordance with label instructions, and shall be stored in a manner which will prevent accidental contact with milk and milk contact surfaces.

(2) Only drugs that are approved by the FDA or biologics approved by the USDA for use in dairy animals that are properly labeled according to FDA or USDA regulations shall be administered to such animals.

(3) When drug storage is located in the milkroom, milkhouse, or milking area, the drugs shall be stored in a closed, tight-fitting storage unit. Such drugs shall further be segregated in such a way so that drugs labeled for use in lactating dairy animals are separated from drugs labeled for use in non-lactating dairy animals.

(4) Drugs labeled for use in non-dairy animals shall not be stored with drugs labeled for use in dairy animals. When drugs labeled for use in non-dairy animals are stored in the barn, the drugs shall be located in an area of the barn separate from the milking area.

(5) Herbicides, fertilizers, pesticides and insecticides that are not approved for use in dairy operations shall not be stored in the milkhouse, milkroom, or milking area.

(Agricultural Marketing Act of 1946, Secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627, unless otherwise noted)

Signed at Washington, DC on July 20, 1992.

Daniel D. Haley,
Administrator, Agricultural Marketing
Service.

[FR Doc. 92-17540 Filed 7-24-92; 8:45 am]

BILLING CODE 3410-02-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware State Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware State Advisory Committee will convene at 9:30 a.m. and adjourn at 12:30 p.m. on Friday, August 14, 1992, J.C. Boggs Federal Building, General Services Administration (GSA) Conference Room 3207-09, 844 King Street, Wilmington, DE 19801. The purpose of the meeting is to consider program ideas by the members and decide upon a project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson Henry A. Heiman at 302/658-1800; or John I. Binkley, Director, ERO at (202/523-5264); or TDD (202/3376-8116). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 15, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92-17606 Filed 7-24-92; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council has scheduled the following committee and workgroup meetings. Dates and locations are listed below:

Observer Oversight Committee:

The Observer Oversight Committee will meet on August 13, 1992, and possibly continue the meeting into August 14. The meeting will begin at 8:30 a.m. on August 13, in room 2079, Building 4, at the Alaska Fisheries Science Center, 7600 Sand Point Way NE., Seattle, WA. The Committee will

discuss proposed changes to the existing Observer Program for 1993 and beyond.

Gulf of Alaska Rockfish Committee

The newly-established Gulf of Alaska Rockfish Committee will meet August 20, 1992, and possibly continue the meeting on August 21 if necessary. The meeting will begin at 10 a.m. on August 20, in the first-floor meeting room at the Travelodge at the Juneau Airport. The Committee will review a proposed trawl closure in the Eastern Gulf of Alaska and begin the process to develop a comprehensive rockfish management plan for the entire Gulf of Alaska.

Bering Sea/Aleutian Islands and Gulf of Alaska Groundfish Teams (BSAI-GOA)

The BSAI and GOA groundfish plan teams will meet September 1-4, 1992, at the Alaska Fisheries Science Center, 7600 Sand Point Way NE., Seattle, WA. The meeting will begin at 8:30 a.m. on September 1, in room 2079, Building 4 at the Center. The Teams will review available stock assessments and catch statistics and begin preparation of Stock Assessment and Fishery Evaluation documents for the 1993 season.

For more information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

Dated: July 22, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-17675 Filed 7-24-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of permit modification (P322B).

Notice is hereby given that pursuant to the provisions of §§ 218.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 735 issued to College of the Atlantic, 105 Eden Street, Bar Harbor, Maine 04609, April 22, 1992, (56 FR 19350) is modified to allow the researcher to approach or attempt to approach a single individual or discrete group of animals within 100 feet no more than six (6) times, for photo-identification and/or biopsy darting.

This modification becomes effective upon signature.

Documents pertaining to this Permit, as modified, are available for review by appointment in the Permits Division,

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910 (301/713-2289); and Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930 (508/281-9200).

Dated: July 20, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-17582 Filed 7-24-92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Temporary Suspension of the Export Visa Arrangement for Certain Cotton Textile Products Produced or Manufactured in the Territory of the Former Union of Soviet Socialist Republics

July 21, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs temporarily suspending the existing export visa arrangement.

EFFECTIVE DATE: July 28, 1992.

FOR FURTHER INFORMATION CONTACT:

Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The U.S. Government has decided to temporarily suspend the existing export visa arrangement established for certain cotton textile products, produced or manufactured in the territory of the former Union of Soviet Socialist Republics and exported from the territory of the former Union of Soviet Socialist Republics on and after July 28, 1992. (See 55 FR 33745, published in the Federal Register on August 17, 1990.)

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 21, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on August 13, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton textile products, produced or manufactured in the Union of Soviet Socialist Republics which are not properly visaed by the Government of the Union of Soviet Socialist Republics.

Effective on July 28, 1992 and until further notice, an export visa shall no longer be required for shipments of textile products, produced or manufactured in the territory of the former Union of Soviet Socialist Republics and exported from the territory of the former Union of Soviet Socialist Republics on and after July 28, 1992.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-17634 Filed 7-24-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Task Force on the Future of American Nuclear Forces; Meeting

ACTION: Notice of task force meeting.

SUMMARY: The Defense Policy Board Task Force on the Future of American Nuclear Forces will meet in closed session on 11-13 August 1992 from 0800 to 1700 at the RDA Logicon Facility located at 6053 West Century Blvd, Los Angeles, California. The mission of the Task Force is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning matters relating to U.S. nuclear force policy. At the meeting the Task Force will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: July 21, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 92-17581 Filed 7-24-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Amend Systems of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Amend systems of records.

SUMMARY: The Department of the Air Force proposes to amend 14 existing systems of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amended systems will be effective August 26, 1992, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Air Force Access Programs Manager, SAF/AAIA, The Pentagon, Washington, DC 20330-1000.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Gibson at (703) 697-3491 or DSN 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record systems notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the *Federal Register* as follows:

50 FR 22332 May 29, 1985 (DOD Compilation, changes follow)

50 FR 24672 Jun. 12, 1985

50 FR 25737 Jun. 21, 1985

50 FR 46477 Nov. 8, 1985

50 FR 50337 Dec. 10, 1985

51 FR 4531 Feb. 5, 1986

51 FR 7317 Mar. 5, 1986

51 FR 16735 May 6, 1986

51 FR 18927 May 23, 1986

51 FR 41382 Nov. 14, 1986

51 FR 44332 Dec. 9, 1986

52 FR 11845 Apr. 13, 1987

53 FR 24354 Jun. 28, 1988

53 FR 45800 Nov. 14, 1988

53 FR 50072 Dec. 13, 1988

53 FR 51301 Dec. 21, 1988

54 FR 10034 Mar. 9, 1989

54 FR 43450 Oct. 25, 1989

54 FR 47550 Nov. 15, 1989

55 FR 21770 May 29, 1990

55 FR 21900 May 30, 1990 (Updated Address Directory)

55 FR 27868 Jul. 6, 1990

55 FR 28427 Jul. 11, 1990

55 FR 34310 Aug. 22, 1990

55 FR 38126 Sep. 17, 1990

55 FR 42625 Oct. 22, 1990

55 FR 52072 Dec. 19, 1990

56 FR 1990 Jan. 18, 1991

56 FR 5804 Feb. 13, 1991

56 FR 12713 Mar. 27, 1991

56 FR 23054 May 20, 1991

56 FR 23876 May 24, 1991

56 FR 26800 Jun. 11, 1991

56 FR 31394 Jul. 10, 1991 (Updated Index Guide)

56 FR 32181 Jul. 15, 1991 (Updated Systems Identification)

56 FR 63718 Dec. 5, 1991

57 FR 1907 Jan. 16, 1992

57 FR 24600 June 10, 1992

The amended systems are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the systems of records being amended are set forth below, followed by the systems of records notices published in their entirety.

Dated: July 15, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

AMENDMENTS F010 ARPC A

SYSTEM NAME:

Background Material, (50 FR 22335, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry "and Executive Order 9397."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are protected by guards."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays."

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

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F010 ARPC A

SYSTEM NAME:

Background Material.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letter request for orders, amendments, including justification on files on special authorizations when required by order publishing activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1162, Reserves: Discharge, and Executive Order 9397.

PURPOSE(S):

Used for publication of discharge orders and to verify that discharge orders were published.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of

record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name, and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are protected by guards.

RETENTION AND DISPOSAL:

Retained in office files for 1 year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or

may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, police and investigating officers, witnesses and source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F011 ARPC A

SYSTEM NAME:

Locator or Personnel Data, (50 FR 22341, May 29, 1985).

CHANGES:

SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 267, Ready Reserve; Standby Reserve; Retired Reserve; Placement and status of members; 268, Ready Reserve; 270, Ready Reserve; Training requirements; 271, Ready Reserve; Continuous screening; 273, Standby Reserve; Composition, inactive status list; 275, Personnel records; 278, Dissemination of information; 591, Reserve components: Qualifications; 592, Commissioned officer grades; 593, Commissioned officers: Appointment, how made; term; 594, Commissioned officers: Original appointment; limitation; 8013, Secretary of the Air Force: Powers and duties, delegation by, and Executive Order 9397."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms, cabinets, and in computer storage devices protected by computer system software. Records are protected by guards."

RETENTION AND DISPOSAL:

Delete entry and replace with "Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are

destroyed by erasing, deleting or overwriting."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."

Written request for information should contain full name of individual, Social Security Number, current address, and the case (control) number shown on correspondence received from the Center (if applicable). For personal visits, the individual should provide current Reserve identification card and/or drivers license."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Records manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000, between 8 a.m. and 3 p.m. on normal workdays."

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

F011 ARPC A

SYSTEM NAME:

Locator or Personnel Data.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve and Air National Guard personnel. Retired and former Air Force military personnel. HQ ARPC civilian personnel. Air Force active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards, forms, ledgers, record request, computer listings containing individual's name or names, Social Security Number, Air Force service number, grade, Reserve status, present and former address, record of employer, work production statistics, parent and other relevant Reservist or personnel data, Veterans Administration claim number, education institutes Reservist attended, school affiliations, correspondence to and from Federal agencies and employers trying to establish current address of Reservists, vouchers for medical service, final payment of medical service bills, medical action required, notes indicating if individual is authorized to earn point credit, and other personnel data. Documents which contain a summary of action taken or to be taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 267, Ready Reserve; Standby Reserve; Retired Reserve: Placement and status of members; 268, Ready Reserve; 270, Ready Reserve: Training requirements; 271, Ready Reserve: Continuous screening; 273, Standby Reserve: Composition, inactive status list; 275, Personnel records; 278, Dissemination of information; 591, Reserve components: Qualifications; 592, Commissioned officer grades; 593, Commissioned officers: Appointment, how made; term; 594, Commissioned officers: Original appointment; limitation; 8013, Secretary of the Air Force: Powers and duties, delegation by, and Executive Order 9397.

PURPOSE(S):

Used to control records distribution; to record location of record, actions taken or to be taken; used to manage individual's records and Management Information System data; to answer inquiries from individual and Air Force units to which individuals are assigned or are to be assigned or other agencies with a need to know of action taken; to verify if author of a letter was a member/or is a member of Reserve and what his or her Social Security Number should be; to search for good address and stop computer mail from going to bad address; used to refer for administrative discharge action on Reservist that cannot be located, advise Reservist or civilian of Reserve matters or Center actions; to provide comprehensive record of all medical actions taken by Surgeon's Office and record authorization for physical examinations at Government expense or no expense and record voucher number;

used in preparing point credit authorization and forwarding authenticated point credit forms to servicing personnel office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders, notebooks/binders, visible file binders/cabinets, card files, on paper, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name, Social Security Number, system identifier and/or voucher number, school affiliation, or by last address of Reservist.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms, cabinets, and in computer storage devices protected by computer system software. Records are protected by guards.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written request for information should contain full name of individual, Social Security Number, current address, and the case (control) number shown on correspondence received from

the Center (if applicable). For personal visits, the individual should provide current Reserve identification card and/or drivers license.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Records manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information provided by the individual, extracted from individual records, individual advanced personnel data computer system. For address information secured from last recorded employer, postmaster of city of last recorded address, telephone information operator at last city of good address, parents of Reservist, other relatives of Reservist, Veterans Administration if Reservist has a claim number listed in master personnel record, college or university Reservist attended, Selective Service Board, Internal Revenue Service, public utilities or any other lead that may be found in the master personnel record of the Reservist, military pay records at Defense Finance Accounting System (DFAS), log books and from Consolidated Base Personnel Offices. Medical information is also secured from medical facilities, physicians, medical specialists.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F030 ARPC A**SYSTEM NAME:**

Application for Identification (ID) Cards, (50 FR 22365, May 29, 1985).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with
"Headquarters Air Reserve Personnel
Center, Denver, CO 80280-5000."
* * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry "and Executive
Order 9397."
* * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with
"Commander, Headquarters Air Reserve
Personnel Center, Denver, CO 80208-
5000."
* * *

NOTIFICATION PROCEDURE:

Delete entry and replace with
"Individuals seeking to determine
whether information about themselves
is contained in this system should
address inquiries to the Records
Manager, Headquarters Air Reserve
Personnel Center/IMD, Denver, CO
80280-5000."
* * *

Written requests should contain full
name, SSN, current mailing address, and
the case (control) number on
correspondence received from the
Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with
"Individuals seeking to access records
about themselves contained in this
system should address inquiries to the
Records Manager, Headquarters Air
Reserve Personnel Center/IMD, Denver,
CO 80280-5000. Records may be
reviewed in the Records Review Room,
Headquarters Air Reserve Personnel
Center, Denver, CO, between 8 a.m. and
3 p.m. on normal workdays."
* * *

Requester must be able to provide
sufficient proof of identity, with an
Armed Forces identification card or a
drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The
Department of the Air Force rules for
accessing records, and for contesting
and appealing initial agency
determinations by the individual
concerned are published in Air Force
Regulation 12-35; 32 CFR part 806b; or
may be obtained from the system
manager."
* * *

F030 ARPC A**SYSTEM NAME:**

Applications for Identification (ID)
Cards.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel
Center, Denver, CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for ID cards and
discharge orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 499, Military, naval, or
official pass; 506, Seals of departments
or agencies; and 701, Official badges,
identification cards, other insignia, as
implemented by Air Force Regulation
30-20, Issue and Control of
Identification (ID) Cards, and Executive
Order 9397.

PURPOSE(S):

Used as a suspense file pending
receipt of ID card or correspondence
from Reservist advising of prior
disposition of identification card.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force
"Blanket Routine Uses" published at the
beginning of the agency's compilation of
record system notices apply to this
system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name and Social
Security Number.

SAFEGUARDS:

Records are accessed by person(s)
responsible for servicing the record
system in performance of their official
duties and by authorized personnel who
are properly screened and cleared for
need-to-know. Records are stored in
locked rooms and cabinets. Records are
protected by guards.

RETENTION AND DISPOSAL:

Destroy when notified that credential
has been returned to issuing activity by
tearing into pieces, shredding, pulping,
macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air
Reserve Personnel Center, Denver, CO
80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine
whether information about themselves
is contained in this system should
address inquiries to the Records
Manager, Headquarters Air Reserve
Personnel Center/IMD, Denver, CO
80280-5000.

Written requests should contain full
name, SSN, current mailing address, and
the case (control) number on
correspondence received from the
Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records
about themselves contained in this
system should address inquiries to the
Records Manager, Headquarters Air
Reserve Personnel Center/IMD, Denver,
CO 80280-5000. Records may be
reviewed in the Records Review Room,
Headquarters Air Reserve Personnel
Center, Denver, CO, between 8 a.m. and
3 p.m. on normal workdays.

Requester must be able to provide
sufficient proof of identity, with an
Armed Forces identification card or a
drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules
for accessing records, and for contesting
and appealing initial agency
determinations by the individual
concerned are published in Air Force
Regulation 12-35; 32 CFR part 806b; or
may be obtained from the system
manager.

RECORD SOURCE CATEGORIES:

Information is extracted from master
personnel record when individual is
discharged from the Air Force Reserve.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F030 ARPC B**SYSTEM NAME:**

Point Credit Accounting Record
System (PCARS), (50 FR 22366, May 29,
1985).

CHANGES:

* * *

SYSTEM LOCATION:

Delete entry and replace with
"Headquarters Air Reserve Personnel
Center, Denver, CO 80280-5000, and
Headquarters Air Force Military
Personnel Center (HQ AFMPC),
Randolph AFB, TX 78150-6001. Air
National Guard and Air Force Reserve
activities. Official mailing addresses are
published as an appendix to the Air

Force's compilation of record system notices."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry "and Executive Order 9397."

SAFEGUARDS:

Insert before last sentence "Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

After the word "macerating" add "or burning." Add as last sentence "Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, HQARPC, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays."

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

F030 ARPC B

SYSTEM NAME:

Point Credit Accounting Record System (PCARS).

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000, and Headquarters Air Force Military Personnel Center (HQ AFMPC), Randolph AFB, TX 78150-6001. Air National Guard and Air Force Reserve activities. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve and National Guard Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, orders, forms, and reports which include identifying personnel data including name, Social Security Number, address, grade, and retirement/retention date; record of retirement points and service earned prior to and record of points earned, by type duty, for the current retirement year. Reports include automated listings, processed transactions, rejected transactions, accession transactions, point summary lists, statistical reports, individual point summary reports, and input lists for participation verification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1331, Age and service requirements; 1332, Computation of years of service in determining entitlement to retired pay; 1333, Computation of years of service in computing retired pay; 1334, Time not creditable toward years of service; 1335, Inactive status list; 1336, Service credited for retired pay benefits not excluded for other benefits; 1337, Limitation on active duty, as implemented by Air Force Manual 30-130, Vol I, Base Level Military Personnel System; Air Force Regulations 35-41, Vol II, Reserve Training; 35-7, Service Retirements; and 35-3, Service Dates and Dates of Rank, and Executive Order 9397.

PURPOSE(S):

Used to maintain accurate listings of transactions processed to active Reserve force member's point credit account; to reconcile strength of the Air National Guard and Air Force Reserve members between the various mechanized accounting systems; to identify new members of the Air Force Reserve and Air National Guard; to

certify accuracy and completeness of transactions manually submitted to the point record as required by Air Force audit requirements; to advise member and Reserve managers of the member's participation in Reserve affairs; for promotion evaluation considerations, and for determination of retirement eligibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software. Records are protected by guards.

RETENTION AND DISPOSAL:

Documents not required for inclusion in military personnel record system are retained in office files until superseded, obsolete, no longer needed for reference, or after 16 months, whichever is sooner, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from master personnel record and authorized point credit documents obtained from automated system interfaces.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ARPC A

SYSTEM NAME:

Administrative Discharge for Cause on Reserve Personnel, (50 FR 22395, May 29, 1985).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000 (non-unit assigned personnel), and Headquarters Air Force Reserve, Robins AFB, GA 31098-5000 (unit assigned personnel)."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add "and Executive Order 9397" to end of entry.

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official

duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets, and are protected by guards."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000 (non-unit assigned personnel), or the Chief, Personnel Actions Division, Robins AFB, GA 31908-5000 (unit assigned personnel)."

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000 (non-unit assigned personnel), or the Chief, Personnel Actions Division, Robins AFB, GA 31908-5000 (unit assigned personnel)). Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO between 8 a.m. and 3 p.m., or at HQ AFRES/DPAA, Robins AFB, GA between 8 a.m. and 4:45 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 ARPC A

SYSTEM NAME:

Administrative Discharge for Cause on Reserve Personnel.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000 (for non-unit assigned personnel), and

Headquarters Air Force Reserve, Robins AFB, GA 31098-5000 (for unit assigned personnel).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Board proceedings, board waiver, recommendations, and other records which result in discharge.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1162, Reserves; Discharge; 1163, Reserve components; members; limitations on separation as implemented by Air Force Regulations 35-41, Vol III, Separation Procedures for USAFR Members; 35-24, Disposition of Conscientious Objectors; Headquarters Air Reserve Personnel Center Regulation 45-19, Discharge for Inability to Locate, and Executive Order 9397.

PURPOSE(S):

To effect the administrative separation of officer members of the United States Air Force Reserve (USAFR) from their appointment as Reserve officers and to effect the administrative separation of enlisted members of the USAFR from their enlistment as Reserve members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name and by Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Records are protected by guards.

RETENTION AND DISPOSAL:

Retained in office files for 1 year after annual cutoff, then destroyed by tearing into pieces, shredding, pulping,

macerating, or burning. HQ AFRES forwards copies of actions resulting in discharge to the HQ ARPC for inclusion in the individual's Master Personnel Record Group. Individual's military personnel record is then forwarded to the National Personnel Record Center, 9700 Page Boulevard, St Louis, MO 63132-2001 for permanent storage.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver CO 80280-5000, and Vice Commander, Robins Air Force Base, GA 31098-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000 (non-unit assigned personnel), or the Chief, Personnel Actions Division, Robins AFB, GA 31908-5000 (unit assigned personnel).

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000 (non-unit assigned personnel), or the Chief, Personnel Actions Division, Robins AFB, GA 31908-5000 (unit assigned personnel). Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO between 8 a.m. and 3 p.m., or at HQ AFRES/DPAA, Robins AFB, GA between 8 a.m. and 4:45 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, police and investigating officers and from witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ARPC B

SYSTEM NAME:

Informational Management Personnel Records, (50 FR 22396, May 29, 1985).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000; Headquarters United States Air Force, Office of Air Force Reserve (AF/RE), Washington, DC 20330-5000; United States Air Force Academy (USAF Academy), CO 80440-5000; major commands, and major subordinate commands. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices of record systems notices."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 262, Purpose; 274, Retired Reserve; 275, Personnel records; 672, Reserve components generally; 673, Ready Reserve; 2001, Reserve components; 8013, Secretary of the Air Force: Powers and duties; delegation by; 8067, Designation: Officers to perform certain professional functions, as implemented by Air Force Regulations 35-41, Vol I, Assignments Within the Reserve Components; AFR 35-41, Vol II, Reserve Personnel Policies and Procedures - Reserve Training; AFR 35-44, Military Personnel Records System, and Executive Orders 9397 and 11366."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name and/or Social Security Number."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000, and system managers at other system locations. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records

Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000, or to agency officials at location of assignment.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000, or to agencies officials at location of assignment.

Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays. Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 ARPC B

SYSTEM NAME:

Informational Personnel Management Records.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000; Headquarters United States Air Force, Office of Air Force Reserve, Washington, DC 20330-5000; United States Air Force Academy, CO 80440-5000; major commands, and major subordinate commands. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve and Air National Guard personnel. Civilian/active military applicants to the Air Force Reserve. Retired and former Air Force military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer and airman assignment files which includes correspondence; memos; completed forms; messages; vacancy authorization data for assignment approvals/disapprovals; waivers; manning assistance; discharges; screening data; orders; evaluation reports; documents changing training category; personnel data; photographs; chaplain ecclesiastical endorsement; record of security clearance; miscellaneous correspondence to and from individual; documents pertaining to individual that are not authorized for inclusion in other military personnel record systems; case file of Reserve personnel placed on active duty containing copies of special and Reserve orders; correspondence; documents complete with information used for travel overseas; assignment instructions; list of actions taken by technician; board actions on involuntary airmen; certified receipts acknowledgment of receipt of special orders card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 262, Purpose; 274, Retired Reserve; 275, Personnel records; 672, Reserve components generally; 673, Ready Reserve; 2001, Reserve components; 8013, Secretary of the Air Force: Powers and duties; delegation by; 8067, Designation: Officers to perform certain professional functions, as implemented by Air Force Regulations 35-41, Vol I, Assignments Within the Reserve Components; AFR 35-41, Vol II, Reserve Personnel Policies and Procedures - Reserve Training; AFR 35-44, Military Personnel Records System, and Executive Orders 9397 and 11366.

PURPOSE(S):

Used to determine eligibility/suitability for assignment/reassignment with the Air Force Reserve; determine eligibility for retired related action, to make determinations on discharges or mobilization, deferments, fulfillment of statutory requirements, voluntary and involuntary order to extended active duty (EAD) and temporary release, status of active duty tour; position occupied; training reports. These include but are not limited to members participating in the Chaplain, Judge Advocate, Surgeon General Program. Records maintained as a historical file. Answers to correspondence/telephone inquiries; updating and/or changing information in computer and/or individual Reservist record. Used as a reference file to answer inquiries from Reservist being called to active duty, to send gaining active units additional copies as requested, used as

substantiating documents to show action was taken in accordance to prescribing directives. Information on personnel in the Chaplain, Judge Advocate, Surgeon General and other officer management programs is used by personnel responsible for program in order to assist Reservists in their careers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders/card files/ note books/binders and in visible file binders/cabinets.

RETRIEVABILITY:

Retrieved by name and/or by Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Records are protected by guards.

RETENTION AND DISPOSAL:

Retain in office files until inactivation, reassignment or separation, no longer needed for reference or one year after annual cutoff. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000, or to agency officials at location of assignment.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000, or to agencies officials at location of assignment. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information supplied by individual as relates to but not limited to requesting assignment, application for retirement, military orders, personnel data, master personnel record, correspondence, statement of military service from other military components; annual survey and Advance Personnel Data System, correspondence from serving Consolidated Base Personnel Office/ Consolidated Reserve Personnel Office and major command units. Instructions from Air Force Military Personnel Center, Randolph Air Force Base, TX 78150-6001, instructions and board actions from Air Force Reserve, Robins Air Force Base, GA 31098-6001, Air Force Training Corps/SDAA, Maxwell Air Force Base, AL 36112-6678, the National Guard Bureau, Washington DC 20331-6008, major air commands, and from HQ USAF/JAEC, Washington DC 20314-5000. Information from source documents prepared on behalf of the Air Force Advance Personnel Data System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ARPC C**SYSTEM NAME:**

Correction of Military Records for Officers and Airmen, (50 FR 22397, May 29, 1985).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

* * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add "and Executive Order 9397" to end of entry.

* * * *

PURPOSE(S)

Delete "Manpower and Personnel Center," and insert "Air Force Military Personnel Center, Randolph AFB, TX 78150-6001."

* * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays."

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "From subject of the record and military personnel records."

* * * *

F035 ARPC C**SYSTEM NAME:**

Correction of Military Records of Officers and Airmen.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel and Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files containing letters from individual Reservist requesting correction of military record, related documents and replies to Reservist.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 275, Personnel records, as implemented by Air Force Regulation 31-3, Air Force Board for Correction of Military Records, Headquarters Air Reserve Personnel Center Regulation 45-4, Correction of Military Records, and Executive Order 9397.

PURPOSE(S):

Used by office managers and section supervisors and technicians to process correction of Reserve records when requested. Base files are sent to Air Force Military Personnel Center, Randolph AFB, TX 78150-6001 for final action.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for

need-to-know. Records are stored in locked rooms and cabinets. Records are protected by guards.

RETENTION AND DISPOSAL:

Destroyed after 3 years by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From subject of the record and military personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ARPC D**SYSTEM NAME:**

Data Change/Suspense Notification. (50 FR 22398, May 29, 1985).

CHANGES:

* * * *

SYSTEM LOCATION:

Delete entry and replace with
"Headquarters Air Reserve Personnel
Center, Denver, CO 80280-5000."
* * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 275, Personnel records, as implemented by Air Force Regulation 35-41, Vol I, Assignments Within the Reserve Components; Headquarters Air Reserve Center Regulation 45-7, Annual Surveys of Non-EAD Reservists, and Executive Order 9397."
* * *

SAFEGUARDS:

Delete entry and replace with
"Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets and are protected by guards."
* * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with
"Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000."
* * *

NOTIFICATION PROCEDURE:

Delete entry and replace with
"Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."
* * *

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with
"Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."
* * *

Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays. Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."
* * *

F035 ARPC D**SYSTEM NAME:**

Data Change/Suspense Notification.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and forms used to record discrepancies or changes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 275, Personnel records, as implemented by Air Force Regulation 35-41, Vol I, Assignments Within the Reserve Components; Headquarters Air Reserve Center Regulation 45-7, Annual Surveys of Non-EAD Reservists, and Executive Order 9397.

PURPOSE(S):

To resolve discrepancies detected during annual records review.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders.

RETRIEVABILITY:

Retrieved by Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in the performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets and are protected by guards.

RETENTION AND DISPOSAL:

Retained in office files for 1 year after annual cutoff, then destroyed by tearing

into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written request should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from source documents prepared on behalf of the Air Force Advanced Personnel Data System or supplied by Reservist.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ARPC E**SYSTEM NAME:**

Flying Status Actions, (50 FR 22398, May 29, 1985).

CHANGES:

* * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

* * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 275, Personnel records as implemented by Air Force Regulation (AFR) 60-13, Aviation Service, Aeronautical Ratings and Badges; AFR 60-1, Flight Management, and Executive Order 9397."

* * *

PURPOSE(S):

Delete entry and replace with "To record each member's flying pay entitlement status and to monitor continuing entitlement in accordance with existing directions; to record each individual's flying activities, both hours and specific events, and provide indications of successful attainment of standards or deficiencies; to determine each rated member's eligibility to perform operational flying in accordance with existing USAF directives, and to provide each applicable individual and manager with all aviation career profile information needed to monitor flying career development, professional qualifications and training deficiencies."

* * *

STORAGE:

Add to end of entry "in computers and computer output products."

SAFEGUARDS:

Add before last sentence "Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Add to end of entry "Computer records are destroyed by erasing, deleting or overwriting."

* * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."

Written requests should contain full name, SSN, current mailing address, and

the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays."

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * *

F035 ARPC E**SYSTEM NAME:**

Flying Status Actions.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve and Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and related documents pertaining to request for suspension, non-rated officer utilization, aeronautical rating data documents that pertain to aeronautical ratings or suspensions and request for update of the uniform officer record and applications for other flying status/actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C 275, Personnel records as implemented by Air Force Regulation (AFR) 60-13, Aviation Service, Aeronautical Ratings and Badges; AFR 60-1, Flight Management, and Executive Order 9397.

PURPOSE(S):

To record each member's flying pay entitlement status and to monitor continuing entitlement in accordance

with existing directions; to record each individual's flying activities, both hours and specific events, and provide indications of successful attainment of standards or deficiencies; to determine each rated member's eligibility to perform operational flying in accordance with existing USAF directives, and to provide each applicable individual and manager with all aviation career profile information needed to monitor flying career development, professional qualifications and training deficiencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software. Records are protected by guards.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from source documents prepared on behalf of the Air Force Advanced Personnel Data System or supplied by Reservist.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ARPC G**SYSTEM NAME:**

Officer Promotion, (50 FR 22399, May 29, 1985).

CHANGES:**SYSTEM LOCATION:**

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add "and Executive Order 9397" to end of entry.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays."

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "From military personnel records."

* * * * *

F035 ARPC G**SYSTEM NAME:**

Officer Promotions.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000; Washington National Records Center, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officer personnel. Air Force Reserve and Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Proceedings, findings and related documents such as rosters, board membership and board support and orders announcing promotion.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8362, Commissioned officers: Selection boards; 8366, Commissioned officers: Promotion to captain, major, or lieutenant colonel; 8367, Commissioned officers: Promotion to captain, major, or lieutenant colonel; selection board procedures; 8371, Commissioned

officers: Air Force Reserve; promotion to colonel as implemented by Air Force Regulation 36-11, Reserve of the Air Force Officer Promotions, and Executive Order 9397.

PURPOSE(S):

Used by promotion division personnel in preparation for promotion boards and by the actual promotion board when convened.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders and in note books/binders.

RETRIEVABILITY:

Retrieved by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Records are protected by guards.

RETENTION AND DISPOSAL:

Retained in office files for 2 years after annual cutoff, then retired to Washington National Records Center, Washington DC 20409, for permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From military personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None

F035 ARPC I**SYSTEM NAME:**

Requests for Discharge from the Air Force Reserve, (50 FR 22400, May 29, 1985).

CHANGES:**SYSTEM LOCATION:**

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000 (non-unit assigned personnel). Headquarters, Air Force Reserve, Robins Air Force Base, GA 31098-6001 (unit assigned personnel)."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C 275, Personnel records, and Executive Order 9397."

PURPOSE(S):

Delete entry and replace with "To effect the administrative separation of officer and enlisted members of the United States Air Force Reserve who requests discharge or separation by reason of dependency or hardship or for the convenience of the government from their appointment as Reserve members."

STORAGE:

Add to end of entry "in computers and on computer output products."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms, cabinets, and in computer storage devices protected by computer system software. Records are protected by guards."

RETENTION AND DISPOSAL:

Add to end of entry "Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000, and Vice Commander, HQ AFRES, Robins Air Force Base, GA 31098-6001"

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000 (non-unit assigned personnel) or the Chief, Personnel Actions Division, Robins Air Force Base, GA 31098-6001 (unit assigned personnel)."

Written request for information should contain full name of individual, Social Security Number, current address, and the case (control) number shown on correspondence received from HQ ARPC or HQ AFRES (if applicable). For personal visits, the individual should provide current Reserve identification card and/or drivers license."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Records manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000 (non-unit personnel) or to HQ AFRES/DPAA, Robins Air Force Base, GA 31098-6001 (unit assigned personnel)."

Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000, between 8 a.m. and 3 p.m. on normal workdays, or at HQ AFRES/DPAA, Building 210, Robins Air

Force Base, GA 31098-6001, from 8 a.m. to 4:45 p.m. on normal workdays. Individuals desiring to see their records should provide a current Reserve identification card and/or drivers license."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b, or may be obtained from the system manager".

F035 ARPC I**SYSTEM NAME:**

Requests for Discharge from the Air Force Reserve.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000 (non-unit assigned personnel). Headquarters, Air Force Reserve (HQ AFRES), Robins Air Force Base, GA 31098-6001 (unit assigned Personnel).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and other documents relating to discharge or separation by reason of dependency or hardship or for the convenience of the government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 275, Personnel records, and Executive Order 9397.

PURPOSE(S):

To effect the administrative separation of officer and enlisted members of the United States Air Force Reserve who requests discharge or separation by reason of dependency or hardship or for the convenience of the government from their appointment as Reserve members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms, cabinets, and in computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cutoff, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. HQ AFRES forwards copies of actions resulting in discharge to the HQ ARPC for inclusion in the individual's Master Personnel Record Group. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000, and Vice Commander, HQ AFRES, Robins Air Force Base, GA 31098-6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000 (non-unit assigned personnel) or the Chief, Personnel Actions Division, Robins Air Force Base, GA 31098-6001 (unit assigned personnel).

Written request for information should contain full name of individual, Social Security Number, current address, and the case (control) number shown on correspondence received from HQ ARPC or HQ AFRES (if applicable). For personal visits, the individual should provide current Reserve identification card and/or drivers license.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Records manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000 (non-unit personnel) or to HQ AFRES/DPAA, Robins Air Force Base, GA 31098-6001 (unit assigned personnel).

Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000, between 8 a.m. and 3 p.m. on normal workdays, or at HQ

AFRES/DPAA, Building 210, Robins Air Force Base, GA 31098-6001, from 8 a.m. to 4:45 p.m. on normal workdays.

Individuals desiring to see their records should provide a current Reserve identification card and/or drivers license.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from source documents prepared on behalf of the Personnel Data System or supplied by Reservist.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F045 ARPC A**SYSTEM NAME:**

Air Force Reserve Application, (50 FR 22434, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change the word "Commission" to "Commissioned," and add to end of entry "and Executive Order 9397."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80208-5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000."

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records

about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000, telephone (301) 370-4667. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F045 ARPC A**SYSTEM NAME:**

Air Force Reserve Application.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty personnel, civilian employees and former employees, Air Force Reserve and Air National Guard personnel, dependents of military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of application for appointment as reserve of the Air Force and comparable forms, correspondence, and related papers.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 275 Personnel Records; 672 Reserve Components General; 8358 Commissioned Officers original appointment; service credit, 8359 Commissioned Officers original appointment, determination of grade, as implemented by Air Force Regulation 36-15, Appointment in Commissioned Grades and Designation and Assignment in Professional Categories - Reserve of the Air Force and USAF (Temporary), and Executive Order 9397.

PURPOSE(S):

To determine if individual qualifies for appointment or commissioning in the Reserve of the Air Force on voluntary entry on Extended Active Duty (EAD)

and justification, if any, for an Air Force Specialty Code (AFSC). Medical applications are forwarded for approval to AFMPC/SC, Randolph Air Force Base, TX 78150-6001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files and file folders.

RETRIEVABILITY:

Retrieved by Social Security Number, by name, or case control number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Records are protected by guards.

RETENTION AND DISPOSAL:

Destroy one year after approval or one year after individual declines appointment. Applications for entrance on active duty are destroyed after one year or when superseded, obsolete and no longer needed for reference or inactivation whichever is sooner. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this

system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from individual applying for appointment in the reserve, applications for extended active duty, and statement of military who served in the Navy or Marine Corps.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F050 ARPC A

SYSTEM NAME:

Professional Military Education (PME), (50 FR 22446, May 29, 1985).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 262, Purpose, as implemented by Air Force Regulation 50-5, USAF Formal Schools (Policies, Responsibilities, General Procedures, and Course Announcements), Air Force Regulations 35-41, Vol II, Reserve Personnel Policies and Procedures - Reserve Training; and 53-8, USAF Officer Professional Military Education System."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine

whether information about themselves is contained in this system this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license."

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F050 ARPC A

SYSTEM NAME:

Professional Military Education (PME).

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning school PME quotas, school selection boards results selecting a Reservist to attend a PME course.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 262, Purpose, as implemented by Air Force Regulation 50-5, USAF Formal Schools (Policies, Responsibilities, General Procedures, and Course Announcements), Air Force Regulations 35-41, Vol II, Reserve Personnel Policies and Procedures -

Reserve Training; and 53-8, USAF Officer Professional Military Education System.

PURPOSE(S):

Used to monitor, manage and comply with the requirements to fulfill the quotas allocated to Reservist by the office of primary responsibility at HQ ARPC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders/note books/binders.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Records are protected by guards.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cutoff, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the

Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from master personnel record and individual's application.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F160 ARPC A

SYSTEM NAME:

Physical Examination Reports Suspense, (50 FR 22506, May 29, 1985).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "Air Force Regulation 60-43" and insert "Air Force Regulation 160-43," and add to end of Entry "of non-EAD Reservists, and Executive Order 9397."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on

correspondence received from the Center, if applicable."

RECORD ACCESS PROCEDURES:

Records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

Delete entry and replace with "The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F160 ARPC A

SYSTEM NAME:

Physical Examination Reports Suspense File.

SYSTEM LOCATION:

Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incomplete reports of physical examinations, correspondence to and from Reservists/individuals.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 275, Personnel Records, as implemented by Air Force Regulation 160-43, Medical Examination and Medical Standards, and Headquarters Air Reserve Personnel Center Regulation 45-7, Annual Survey of Non-EAD Reservists, and Executive Order 9397.

PURPOSE(S):

Information in files is used to provide control of Reservists/individual medical status.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of

record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Records are protected by guards.

RETENTION AND DISPOSAL:

Retained in suspense file until completed, then filed in the individual health record.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters Air Reserve Personnel Center, Denver, CO 80280-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000.

Written requests should contain full name, SSN, current mailing address, and the case (control) number on correspondence received from the Center, if applicable.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address inquiries to the Records Manager, Headquarters Air Reserve Personnel Center/IMD, Denver, CO 80280-5000. Records may be reviewed in the Records Review Room, Headquarters Air Reserve Personnel Center, Denver, CO, between 8 a.m. and 3 p.m. on normal workdays.

Requester must be able to provide sufficient proof of identity, with an Armed Forces identification card or a drivers license.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or

may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from examining facilities, physicians military and civilian, and summary of physician's evaluation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92-17585 Filed 7-24-92; 8:45 am]

BILLING CODE 3810-01-F

Department of the Army

Fort Hood Environmental Impact Statement Record of Decision

July 20, 1992.

AGENCY: Department of Defense, United States Army.

ACTION: Notice of availability.

SUMMARY: The Department of the Army has announced the approval to proceed with the realignment of the 5th Infantry Division (Mechanized) from Fort Polk, Louisiana to Fort Hood, Texas. In accordance with Public Law 101-510, the Army will implement the recommendations of the Defense Base Closure and Realignment Commission.

As Environmental Impact Statement (EIS) was prepared to assess the impacts of the realignment. Based on the findings of the final EIS, the Army has adequately assessed the impacts of the realignment, and has taken all practical measures to avoid or mitigate harmful environmental effects. The Army has complied or will comply with all environmental laws and regulations during this realignment.

The move will begin immediately. The majority of the units will move over a one year period to minimize the number of enlisted personnel housed in non-modernized barracks and provide sufficient time to execute the realignment in a manner which will reduce disruption to military operations and readiness, logistical resources, and families. The realignment will transfer approximately 12,300 military authorizations to Fort Hood and increase the installation's civilian requirements by approximately 500.

FOR FURTHER INFORMATION CONTACT:

For more information or to obtain copies of the Record of Decision, contact Mr. Arver Ferguson, (817) 334-3246 or write to: United States Army Corps of Engineers, Fort Worth District, ATTN:

CESWF-PL-RE, 819 Taylor Street, Fort Worth, Texas 76102-0300.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety & Occupational Health) OASA (I, L&E).

[FR Doc. 92-17578 Filed 7-24-92; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.004D]

Desegregation of Public Education Program for Desegregation Assistance Centers; Inviting Applications for New Grant/Cooperative Agreement Awards for Fiscal Year (FY) 1993

PURPOSE OF PROGRAM: The Desegregation Assistance Center Program is designed to provide financial assistance to operate regional Desegregation Assistance Centers (DACs), to enable them to provide technical assistance (including training) at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for the desegregation of public schools, and in the development of effective methods of copying with special educational problems occasioned by desegregation.

ELIGIBLE APPLICANTS: A public agency (other than a State educational agency or a school board) or a private, nonprofit organization is eligible to receive a grant/cooperative agreement through this program.

Deadline for Transmittal of Applications: September 22, 1992.

Deadline for Intergovernmental Review: November 21, 1992.

Applications Available: July 31, 1992.

Estimated Available Funds: \$7.4 million.

Estimated Range of Awards: \$500,000 to \$900,000.

Estimated Average Size of Awards: \$740,000.

Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) Education Department General Administrative Regulations (EDGAR) in CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86, and (b) the regulations for this program in 34 CFR parts 270 and 272.

For Applications or Information Contact: Annie Mack, U.S. Department of Education, 400 Maryland Avenue, SW., room 2059, Washington, DC, 20202-6246. Telephone: (202) 401-0358. Deaf and hearing impaired individuals may

call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 42 U.S.C. 2000c-2000c-2, 2000c-5.

Dated: July 21, 1992.

John T. MacDonald,
Assistant Secretary for Elementary and
Secondary Education.

[FR Doc. 92-17595 Filed 7-24-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Grant to National Council on Radiation Protection and Measurement

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to the National Council on Radiation Protection and Measurements (NCRP) under Grant No. DE-FG01-92EW50644. The proposed grant will provide funding in the estimated amount of \$712,058 for NCRP to study and make recommendations on Radionuclide Contamination, Radioactive and Mixed Waste, and Basic Radiation Protection Criteria.

In accordance with 10 CFR 600.14(e)(1), it has been determined that this represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. NCRP is well recognized as providing the means by which nationally and internationally recognized experts can focus their efforts on problems of radiation protection and measurement. The organization has established competence and maturity in radionuclide assessment. The 75 Council members are drawn from distinguished universities, laboratories, medical institutions, and businesses. Over 500 adjunct specialists (engineering, medical, and scientific) serve various NCRP committees on a volunteer basis.

It is determined under subpart 10 CFR 600.7(b)(2)(i)(G) that the proposed effort is deemed valuable and fulfills a public purpose by providing a common good with national significance. This grant will ensure that a comprehensive program of risk assessment in broad

areas of radioactivity, mixed wastes, and radiation protection will be used by industries employing radiation sources to assure their equipment and practices apply the latest concepts of protection. Furthermore, it is anticipated that non-government groups concerned with improving radiation protection will use the Council for technical guidance, which will be beneficial in reduction of potential exposure of personnel to radiation.

The anticipated term of the proposed grant is 36 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, ATTN: Mr. Bernard G. Canlas, PR-322.3, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Division "B", Office of Placement and Administration.

[FR Doc. 92-17671 Filed 7-24-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 8864-007 and 9025-005 Washington]

Weyerhaeuser Co.; Availability of Environmental Assessment

July 21, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license and prepared an Environmental Assessment (EA) for the following proposed projects:

1. Calligan Creek Hydroelectric Project, to be located on Calligan Creek, in King County, near North Bend, WA
2. Hancock Creek Hydroelectric Project, to be located on Hancock Creek, in King County, near North Bend, WA.

In the EA, the Commission's staff has analyzed the project and has concluded that approval of the proposed projects, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices

at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17629 Filed 7-24-92; 8:45 am]

BILLING CODE 6717-01-M

Project Nos. 2327-002, et al.

Hydroelectric Applications; James River-New Hampshire Electric, Inc., et al.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No:* 2327-002.

c. *Date Filed:* February 1, 1989.

d. *Applicant:* James River-New Hampshire Electric, Inc.

e. *Name of Project:* Cascade Hydro Project.

f. *Location:* On the Androscoggin River, Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* Mr. George W. Hill, James River-New Hampshire Electric, Inc., 650 Main Street, Berlin, NH 03570-2489, (603) 752-4600.

i. *FERC Contact:* Ed Lee (202) 219-2809.

j. *Deadline Date:* See Paragraph D5.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D5.

l. *Description of Project:* The existing operating project commenced operation in 1916 and was issued an initial license in 1964, which will expire in December 1993. The licensee has applied for a new license and proposes major modifications to the licensed project. The proposed project would consist of: (1) An existing 53-foot-high and 583-foot-long concrete gravity dam with 3-foot-high flashboards; (2) an existing reservoir with gross storage capacity of 200 acre-feet; (3) an existing headworks structure and forebay; (4) an existing powerhouse equipped with two turbine-generators for a total rated capacity of 7,920 kW; (5) a new intake; (6) a new 18-foot-diameter, 7,400-foot-long steel penstock; (7) a new powerhouse containing a single turbine-generating unit rated at 14,300 kW; and (8) appurtenant facilities. The proposed project would have a total capacity of 22,220 kW and an average annual generation of 103,300 MWh.

m. *Purpose of Projects:* All project energy generated would be utilized by the applicant for sale of its customers.

n. *This notice also consists of the following standard paragraphs:* D5.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 219-1371. A copy is also available for inspection and reproduction at the office of Mr. George W. Hill, James River-New Hampshire Electric, Inc., 850 Main Street, Berlin, NH 03570-2489, (603) 752-4600.

2. a. *Type of Application:* Amendment of License.

b. *Project No.:* 4851-003.

c. *Date Filed:* May 22, 1992.

d. *Applicant:* Pacific Gas and Electric Company (PG&E).

e. *Name of Project:* Sly Creek Transmission Line.

f. *Location:* At Oroville-Wyandotte Irrigation District's South Fork Project, FERC No. 2088, transmitting power from the Sly Creek Powerhouse to PG&E's Woodleaf-Palermo transmission line in Butte County, California.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Mr. Rodney Strub, Pacific Gas and Electric Company, P.O. Box 770000, Mail—P10A, San Francisco, CA 94177, (415) 973-5310.

i. *FERC Contact:* Don Wilt, (202) 219-2676.

j. *Comment Date:* August 28, 1992.

k. *Description of Amendment:* The licensee has requested an extension of the expiration date of its Sly Creek transmission line license from July 31, 2002, to July 1, 2010. This would coincide with the expiration date of their Woodleaf-Palermo transmission line license (FERC No. 2281) and with the expiration date of the power purchase contracts between Oroville-Wyandotte Irrigation District (OWID) and the licensee from OWID's South Fork Project. In addition, it would allow the licensee to reduce its filing requirements by filing a single application for relicensing the transmission line instead of two separate applications.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2.

3. a. *Type of Application:* Minor License.

b. *Project No.:* 9713-001.

c. *Date Filed:* July 21, 1988.

d. *Applicant:* Alphine Hydroelectric Company.

e. *Name of Project:* Alphine Hydro Project.

f. *Location:* On the Cascade Alphine Brook in Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Harold Turner, Alphine Hydroelectric Company, P.O. Box 7191, Concord, NH 03301, (603) 497-3940.

i. *FERC Contact:* Ed Lee (202) 219-2809.

j. *Deadline Date:* See Paragraph D5.

k. *Status of Environmental Analysis:* This application is ready for environment analysis at this time—see attached paragraph D5.

l. *Description of Project:* The proposed project would consist of: (1) The existing 25-foot-high and 178-foot-long cut granite gravity dam; (2) an existing reservoir with gross storage capacity of 3.7 acre-feet with a surface area of .44 acre at normal pool elevation of 1,220 feet MSL; (3) an existing 12-inch-diameter and 2,200-foot-long buried cast iron penstock; (4) a new concrete powerhouse having one generating unit rated at 115 kW; (5) a new tailrace; (6) a new 50-foot-long, three-phase transmission line; and (7) appurtenant facilities. The proposed project would have an average annual generation of 500 MWh. The existing dam is owned by the James River Paper Company, Berlin, New Hampshire.

m. *Purpose of Project:* All project energy generated would be sold to the James River Company or the Public Service Company of New Hampshire.

n. *This notice also consists of the following standard paragraphs:* D5.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 219-1371. A copy is also available for inspection and reproduction at the Office of Mr. Harold Turner, Alphine Hydroelectric Company, Concord, NH 03301, (603) 497-3940.

Standard Paragraphs

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a

party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D5. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (September 18, 1992 for Project Nos. 2327-002 and 9713-001). All reply comments must be filed with the Commission within 105 days from the date of this notice. (November 2, 1992 for Project Nos. 2327-002 and 9713-001).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary

circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: July 21, 1992, Washington, DC.
Lois D. Cashell,
Secretary.
[FR Doc. 92-17613 Filed 7-24-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST91-05247, et al.]

East Texas Gas Systems, et al. Meeting

July 20, 1992.

Take notice that on July 30, 1992, the Pipeline Compliance Staff of the Federal Energy Regulatory Commission will meet with the Union Pacific Intrastate Pipeline Company. The purpose of the meeting is to discuss the specific requirements of the Section 311 regulations in order to ensure the company's compliance with these regulations.

The meeting will be held at 825 North Capitol Street NE., in room 3400, beginning at 2 p.m. Any persons interested in attending the meeting should contact John F. Joseph (202) 208-0711.

Lois D. Cashell,
Secretary.

[FR Doc. 92-17612 Filed 7-24-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP92-92-569-000, et al.]

Viking Gas Transmission Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Viking Gas Transmission Company

[Docket No. CP92-569-000]

July 16, 1992.

Take notice that on July 1, 1992, Viking Gas Transmission Company (Viking), 1010 Milam Street, P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-569-000, as supplemented and amended on July 8 and 13, 1992, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to add a new delivery point for transportation service provided for Peoples Natural Gas Company, a Division of UtiliCorp United Inc. (PNG), under Viking's blanket certificate issued in Docket No. CP82-414-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Viking proposes to install and operate a 2-inch hot tap and related facilities, including a skid mounted, positive displacement meter (maximum rated capacity of 3,200 Mcf per day), at M.P. 2213 + 20.7 (site 2) on Viking's system in Camp Ripley, Morrison County, Minnesota. Viking explains that the delivery point would be used for deliveries of gas under a gas transportation agreement dated October 1, 1990, under which Viking provides an interruptible transportation service to PNG in accordance with Viking's Rate Schedule IT-2. Viking states that PNG would reimburse it for the cost of the facilities, estimated to be \$111,000.

Comment date: August 31, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Williamsville Water Company, Inc.

[Docket No. CP92-586-000]

July 17, 1992.

Take notice that on July 9, 1992, Williamsville Water Company, Inc. (Williamsville), P.O. Box 400, Kosciusko, Mississippi 39090, filed an application pursuant to section 7(c) of the Natural Gas Act and § 284.224 of the Commission's Regulations, 18 CFR 284.224, requesting blanket certificate authorization to engage in the sale, transportation (including storage) and assignment of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Williamsville states that it is a Mississippi Corporation and is a public utility providing natural gas distribution service subject to the regulation of the Mississippi Public Service Commission (the Mississippi PSC). Williamsville states that it has received a certificate of public convenience and necessity from the Mississippi PSC authorizing Williamsville to develop, construct, operate, and maintain underground natural gas storage caverns near Allen, Copiah County, Mississippi.

Williamsville further states that its application before the Commission requests authorization for a blanket certificate to render transportation (including storage) services in interstate commerce for the same rates and under the same terms and conditions approved by the Mississippi PSC for services provided to LDCs, end-users, and public utilities located within the State of Mississippi.

Comment date: August 7, 1992, in accordance with Standard Paragraph F at the end of this notice.

3. Texas Eastern Transmission Corporation

[Docket No. CP92-587-000]

July 17, 1992.

Take notice that on July 9, 1992, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056-5310, filed in Docket No. CP92-587-000 a request pursuant to § 157.205 of the Commission's Regulations to construct a sales tap to deliver natural gas to International Paper Company (IP) in DeSoto Parish, Louisiana under Texas Eastern's blanket certificate issued in Docket No. CP82-535-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern proposes to construct and operate a four-inch hot tap on Texas Eastern's 24-inch Line No. 11 in DeSoto Parish, Louisiana to deliver up to 100,000 dth per day of natural gas to IP, on an interruptible basis, under Texas Eastern's Rate Schedule IT-1. Texas Eastern states the proposed facilities would have no effect on its peak day or annual deliveries and would be accomplished without detriment or disadvantage to its other customers. Texas Eastern states that IP would reimburse Texas Eastern for the cost of the facilities which is estimated to be \$30,400. IP would construct and operate a 4-inch metering and regulating station and 1.41 miles of 6-inch pipeline between the meter and the delivery point to IP, it is indicated.

Comment date: August 31, 1992, in accordance with Standard Paragraph G at the end of this notice.

4. El Paso Natural Gas Company

[Docket No. CP92-590-000]
July 17, 1992.

Take notice that on July 10, 1992, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP92-590-000 a request which is pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate delivery tap facilities located in Coconino County, Arizona to permit the firm transportation and delivery of natural gas for Citizens Utilities Company (Citizens), under its blanket certificate issued in Docket No. CP82-435-000, pursuant to section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states it has provided sales service to Citizens for resale to consumers situated in various communities and areas in the state of Arizona under the terms of a service agreement dated August 17, 1981. El Paso indicates that effective September 1, 1991, Southern Union elected to convert its firm sales entitlements under its existing service agreements to firm transportation service under the provisions of El Paso's global settlement in Docket No. RP88-44-000, *et al.* It is stated that the transportation service is being provided under the terms of a transportation agreement dated August 28, 1991.

El Paso states that Citizens has advised that the Wing Mountain Residential Subdivision located near Citizens' distribution system in

Coconino County, Arizona would require natural gas for residential space heating. In order to accommodate Citizens' request, El Paso proposes to construct and operate a 1-inch O.D. tap and valve assembly, with appurtenances, at a point on El Paso's existing 1 1/4 inch O.D. Fort Valley Line in Coconino County, Arizona at an estimated cost of \$6,416 and at a pressure not to exceed 60 psig.

El Paso estimates annual and peak day volumes to the proposed facility during the third year of operation of 6,373 Mcf and 59 Mcf, respectively. El Paso states that the volumes would have a negligible effect upon its system's peak day and annual deliveries. El Paso states that the construction of the proposed delivery tap is not prohibited by El Paso's existing tariff and that the volumes to be delivered at the proposed tap are within the certificated entitlements of Citizens.

Comment date: August 31, 1992, in accordance with Standard Paragraph G at the end of this notice.

5. Arkansas Western Pipeline Company

[Docket No. CP92-570-000]
July 20, 1992.

Take notice that on July 1, 1992 Arkansas Western Pipeline Company (AW Pipeline), 1083 Sain Street, Fayetteville, Arkansas 72702-1408, filed in Docket No. CP92-570-000, an abbreviated application pursuant to section 7(c) of the Natural Gas Act requesting the Commission to issue a certificate of public convenience and necessity authorizing: (1) The construction and operation of certain pipeline facilities; (2) part 284 transportation service under a blanket certificate; (3) the routing activities under a subpart F of part 157 blanket certificate; and (4) certain proposed initial rates for transportation service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, AW Pipeline proposes to construct and operate approximately one (1) mile of 10-inch pipeline across the St. Francis River and approximately seven and one half (7.5) miles of 8-inch pipeline (all in Missouri), extending from the terminus of the Noark Pipeline System (Noark), an Arkansas intrastate pipeline, near the town of Piggott in Clay County Arkansas and terminating at an interconnection with the facilities of Associated Natural Gas Company, a local distribution company, near the town of Kennett in Dunklin County, Missouri. AW Pipeline states that this proposed pipeline will have a daily capacity of 33,700 Dth per day, and will

be operated at an inlet pressure of 550 pounds per square inch gauge (psig) and an outlet pressure of 475 psig. AW Pipeline states that it does not propose to install any compression facilities at this point in time.

AW Pipeline states that the estimated cost of constructing this proposed pipeline is \$2,702,900 and that these costs will be financed from funds on hand, or will be obtained from AW Pipeline's parent company, Southwestern Energy Company.

AW Pipeline states that it will provide distributors and end-users in southeastern Missouri with access, via Noark, to competitively priced gas from the Arkoma Basin and supplies off of three interstate pipeline—Mississippi River Transmission Corporation, Natural Gas Pipeline Company of America, Inc., and Texas Eastern Transmission Corporation. Further, AW Pipeline states that it will be a transportation—only pipeline, that is, it will make no sales of any kind.

AW Pipeline states that its proposed initial rates are as follows:

Firm Transportation:

Demand Charge:

Maximum rate—\$1.4923 per dekatherm (Dth).

Minimum rate—\$0.0000 per Dth.

Commodity Charge:

Maximum rate—\$0.0002 per dekatherm (Dth).

Minimum rate—\$0.0002 per Dth.

Interruptible Transportation (125% Load Factor):

Maximum rate—\$0.0394 per (Dth).

Minimum rate—\$0.0002 per Dth.

AW Pipeline states that these rates do not include any Annual Charge Adjustment charges.

Lastly, AW Pipeline states: (1) That it believes that any environmental disturbance related to the proposed construction activities will be of short duration and/or minimal impact; (2) that it is important to note that AW Pipeline will utilize directional drilling to install pipeline facilities safely under the St. Francis River; and (3) that once constructed, the proposed pipeline will yield a beneficial environmental impact, by permitting access to competitively placed natural gas, which will replace or offset the use of higher pollutant fuels.

Comment date: August 10, 1992, in accordance with Standard Paragraph F at the end of the notice.

6. Llano, Inc., Colonial Gas Company, Rochester Gas and Electric Corporation, Energyline, Inc.

[Docket Nos. CI92-61-000; CI92-62-000; CI92-63-000]

July 20, 1992.

Take notice that on July 10, 1992, Llano, Inc., and on July 13, 1992, Colonial Gas Company, Rochester Gas and Electric Corporation and Energyline, Inc. (Applicants), filed applications under sections 4 and 7 of the Natural Gas Act (NGA) for unlimited-term blanket certificates with pregranted abandonment. Applicants request authorization to make sales in interstate commerce for resale of all Natural Gas Policy Act categories of natural gas subject to the Commission's NGA jurisdiction, and/or gas purchased from non-first sellers such as interstate and intrastate pipelines or local distribution companies, natural gas purchased under any existing or subsequently approved interstate pipeline tariff, imported natural gas and liquefied natural gas. Applicant applications are on file with the Commission and open for public inspection.

Comment date: August 7, 1992, in accordance with Standard Paragraph J at the end of this notice.

7. Williams Natural Gas Company

[Docket No. CP92-597-000]

July 20, 1992.

Take notice that on July 15, 1992, William Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP92-597-000 a request pursuant to §§ 157.205, 157.212 and 157.216 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to relocate the point of delivery of gas to the United Cities Company Kickapoo town border in Leavenworth County, Kansas, and to construct approximately 1,838 feet of 6-inch pipeline to maintain service to the Carter Waters Haydite plant (Carter Waters) and the Kansas Power & Light Company (KPL Gas service) Dearborn and New Market town borders located in Platte County, Missouri, under blanket certificate issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that it be on file with the Commission and open to public inspection.

WNG states that it proposes to relocate the Kickapoo town border from the St. Joe 12-inch pipeline to the adjacent St. Joe 16-inch pipeline and to construct approximately 1,838 feet of 16-inch pipeline between the St. Joe 12-inch and the adjacent St. Joe 16-inch in order to maintain service to Carter Waters

and the Dearborn and New Market town borders. The projected volume of delivery is not expected to exceed the total volumes currently being delivered of 1,296 Dth on a peak day and 151,058 Dth annually. The estimated cost of construction is approximately \$80,980, which will be paid from funds on hand.

WNG also states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: September 3, 1992, in accordance with Standard Paragraph G at the end of this notice.

8. United Gas Pipeline Company

[Docket No. CP92-592-000]

July 20, 1992.

Take notice that on July 10, 1992, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Texas 77251-1478, pursuant to section 7(b) of the Natural Gas Act, filed in Docket No. CP92-592-000, an application requesting permission and approval to abandon compression facilities and related station piping as well as the unused certificate authority to provide the compression service for a third party in Calcasieu Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Specifically, United intends to abandon three 1,300 horsepower turbine driven compressor units, multiple 12-inch tube meter station, and related piping, all known as the Vinton Compressor Station. The compressor units and the meter station will be abandoned in place. The related piping will also be abandoned in place and capped and filled with nitrogen. United contends that the Vinton Compressor Station was certified in Docket No. CP76-471-000,¹ to interconnect the facilities to Transcontinental Gas Pipeline Company (Transco) and Tennessee Gas Pipeline Company (Tennessee) in southeastern Louisiana in order for United to maintain access to gas supplies in the Gulf of Mexico.

United also requests authorization to abandon certificate authority to compress natural gas for National Fuel Gas Supply Corporation (National Fuel) because the certificate has never been used. United states further that National Fuel consents to the abandonment of the unused certificate authorization.

Comment date: August 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 156.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

¹ 57 FPC 199 (1977).

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,
Secretary.

[FR Doc. 92-17628 Filed 7-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-14-000]

CNG Transmission Corp.; Staff Attendance at Conference

July 21, 1992.

Take notice that the Federal Energy Regulatory Commission Staff will attend a conference to be held on Thursday, July 30, 1992, at 10 a.m. at the Ritz-Carlton Hotel, located at 2100 Massachusetts Avenue, NW., Washington, DC. The conference will be convened by CNG Transmission Corporation for the purpose of discussing CNG's summary of its proposed plan for implementation of Order No. 636. For additional information, please contact Kevin J. Lipson at (202) 955-6667.

Lois D. Cashell,
Secretary.

[FR Doc. 92-17631 Filed 7-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-204-009]

East Tennessee Natural Gas Co.; Compliance Filing

July 21, 1992.

Take notice that on July 15, 1992, East Tennessee Natural Gas Company (East Tennessee), tendered for filing the following tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1992:

Substitute Twenty Third/Sheet No. 4 and 5

Substitute Twenty Fourth/Sheet No. 4 and 5

East Tennessee states that in accordance with the July 8, 1992 letter order, East Tennessee submits the instant sheets to add its take-or-pay surcharge amount ("adjustment under section 26") to the total "rate after adjustment" for its SGS-1 and SGS-2 rate schedules.

East Tennessee states that copies of the filing are being mailed to all affected customers on East Tennessee's system and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's rules of practice and procedure 18 CFR 385.211. All such protests should be filed on or before July 28, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-17610 Filed 7-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-185-001]

El Paso Natural Gas Co.; Compliance Filing

July 21, 1992.

Take notice that on July 17, 1992, El Paso Natural Gas Company ("El Paso"), tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in compliance with ordering paragraph (C) of the Commission's order issued July 2, 1992 at Docket No. RP92-185-000 certain tariff sheets to become effective July 3, 1992.

El Paso states that on June 2, 1992 at Docket No. RP92-185-000, El Paso filed with the Commission certain tariff sheets revising various provisions contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, First Revised Volume No. 1-A and Second Revised Volume No. 1, to become effective July 1, 1992. Ordering paragraph (C) of the July 2, 1992 order provided for the acceptance and suspension to become effective July 3, 1992, subject to refund, of those tariff sheets addressing failure to pay bills, subject to El Paso filing within fifteen (15) days of the date of the order revised tariff sheets reflecting the conditions

stated in the order. Accordingly, El Paso has filed the tendered tariff sheets in compliance with the conditions set forth in ordering paragraph (C) of the July 2, 1992 order.

El Paso requested waiver of the Commission's Regulations, as appropriate, in order that the tendered tariff sheets may become effective July 3, 1992, the same date as authorized by the Commission's order issued July 2, 1992 at Docket No. RP92-185-000.

El Paso states that copies of the filing were served upon all interstate pipeline system transportation and sales customers of El Paso and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's rules of practice and procedure 18 CFR 385.211. All such protests should be filed on or before July 28, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-17608 Filed 7-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-104-002, RP92-131-003]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

July 21, 1992.

Take notice that on July 16, 1992, in compliance with the Commission's June 18 Order, K N Energy, Inc. submitted for filing an original and five copies each of the following tariff sheets to K N's FERC Gas Tariff:

Fourth Revised Volume No. 1:

Substitute Ninth Revised Sheet No. 4
Substitute Ninth Revised Sheet No. 4B

First Revised Volume No. 1-A:

Substitute Fourth Revised Sheet No. 4

First Revised Volume No. 1-B:

Substitute Second Revised Sheet No. 66

The only purpose of this compliance filing is to reflect the June 1, 1992 effective date approved by the June 18 Order.

K N states that copies of the filing were served upon K N's jurisdictional customers, and interested public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 28, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17609 Filed 7-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-051]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 21, 1992.

Take notice that Northern Natural Gas Company (Northern) on November 12, 1991, tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheets:

Third Revised Volume No. 1

Second Revised Sheet No. 74K

First Revised Sheet No. 74M

Second Revised Sheet No. 74N

Original Volume No. 2

First Revised Sheet No. 1W

First Revised Sheet No. 1Y

Second Revised Sheet No. 1Z

Northern states that such tariff sheets are being submitted in compliance with the Commission's September 3, 1992 order in Docket Nos. RP88-259-046, RP89-1227-012, RP90-124, RP90-161 and RP89-136, which approved the IGIC Extension Settlement.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 28, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17607 Filed 7-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-69-000]

Northwest Pipeline Corp.; Conference

July 21, 1992.

Take notice that on Tuesday, August 18 and, if necessary, Wednesday, August 19, 1992, a conference will be convened in the captioned restructuring docket to discuss Northwest Pipeline Corporation's summary of its proposed plan to implement Order No. 636.

The conference will be held at the Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036. The conference will begin at 10 a.m. on August 18. All interested parties are invited to attend. Attendance at the conference will not confer party status. For additional information, interested persons may call Michael Goldenberg at (202) 208-2294.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17630 Filed 7-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-204-000]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

July 21, 1992.

Take notice that on July 17, 1992, South Georgia Natural Gas Company ("South Georgia") tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to be effective August 1, 1992:

First Substitute Fourth Revised Sheet No. 16D

First Substitute Fourth Revised Sheet No. 16T

First Substitute Original Sheet No. 34P.03

South Georgia states that the purpose of this filing is to implement a monthly pro rata fuel retention provision applicable to all of its transportation services. This provision is to be implemented in lieu of the annual fuel adjustment provision currently subject to suspension in Docket No. RP92-74. South Georgia requests a waiver of the Commission's Regulations to make this filing effective August 1, 1992.

South Georgia states that copies of the filing will be served upon its shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington,

DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 28, 1992. Protests will be considered by the Commission in determining the parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17611 Filed 7-24-92; 8:45 am]

BILLING CODE 6710-01-M

Office of Fossil Energy

[FE Docket No. 92-74-NG]

J. Aron & Co.; Application for Blanket Authorization To Import and Export Natural Gas, Including LNG, From and to Canada, Mexico, and Other Countries

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on June 18, 1992, of an application filed by J. Aron & Company (Aron) for blanket authorization to import and export up to 350 Bcf of natural gas, including liquefied natural gas (LNG), from and to Canada, Mexico, and other countries over a two-year term beginning on the date of first delivery. Aron intends to utilize existing pipeline and LNG facilities for the transportation of the volumes to be imported and exported and submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, August 26, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S.

Department of Energy, Forrestal Building, Room 3F-094, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9394.
 Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Aron, a New York general partnership with its principal place of business in New York City, is a major dealer in crude oil and petroleum products, precious metals, foreign exchange and grain. Aron proposes to import natural gas for its own account, as well as for the account of others for which Aron may act as agent. The natural gas will be imported and exported under short-term, market-responsive contracts of two years or less, and will enter or exit at existing points along the international border.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issue determined to be appropriate in a particular case, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to negotiate freely their own trade arrangements. Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested import/export authority. The applicant asserts that imports made under this arrangement would be competitive and there is no current need for the domestic gas that would be exported. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable,

and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, and oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Aron's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours

of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 17, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-17672 Filed 7-24-92; 8:45 am]

BILLING CODE 6450-01-M

FARM CREDIT ADMINISTRATION

[BM-16-JUL-92-03]

Policy Statement Concerning Alternative Means of Dispute Resolution

AGENCY: Farm Credit Administration.

ACTION: Policy statement.

SUMMARY: On July 16, 1992, the Farm Credit Administration (FCA) Board adopted a policy addressing the use of alternative means of dispute resolution (ADR) that provides a framework within which to consider possible applications of ADR. The policy states that the FCA will consider using various forms of ADR to resolve disputes when settlement negotiations have come to a deadlock, that any such consideration will be based on factors such as the impact of the ADR procedure on the effective and efficient regulation of the Farm Credit System, that the FCA's Dispute Resolution Specialist will provide guidance to FCA personnel on the appropriate use of ADR, and that ADR can be initiated once all parties to a dispute have consented to its use.

EFFECTIVE DATE: July 16, 1992.

FOR FURTHER INFORMATION CONTACT:

Frances Pedersen, Senior Attorney, Litigation and Enforcement Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The text of the Board's policy statement concerning the alternative means of dispute resolution is set forth below in its entirety:

Effective Date: 16-JUL-92.

Effect on Previous Action: None.

Source of Authority: Administrative Dispute Resolution Act, Public Law 101-552, H.R. 2597, 101st Congress, 2d Session.

Whereas, the Farm Credit Administration (FCA) Board finds:

The Administrative Dispute Resolution Act (Act), Public Law 101-552 (November 15, 1990), addresses the concern that traditional methods of dispute resolution, such as litigation and administrative adjudication, have become increasingly time-consuming

and expensive. The Act authorizes and encourages greater use of alternative means of dispute resolution (ADR), requiring each Federal agency to adopt a policy addressing the use of ADR.

ADR consists of informal, voluntary procedures used by parties who seek to resolve their disputes by consent. Such procedures include, but are not limited to, settlement negotiations, mediation, conciliation, facilitation, fact-finding, arbitration, and mini-trials, or any combination thereof. By emphasizing the common goals of the parties and fostering an atmosphere of cooperation, ADR can offer a less contentious and more expeditious alternative to traditional methods of dispute resolution such as litigation and administrative adjudication.

The use of ADR in appropriate circumstances is consistent with the FCA's mission as an agency. The mission of the FCA is to provide an effective regulatory environment that facilitates the competitive delivery of financial services to agriculture by the Farm Credit System, while protecting the public, the taxpayer, and the investor by using wisdom, sound judgment, and vision. In fulfilling this mission, the FCA seeks to employ innovative regulatory techniques that efficiently use agency resources. The appropriate use of ADR can promote the FCA's goal of effective and efficient regulation. By expediting the resolution of certain disputes, ADR can reduce the FCA's transaction costs, increase the FCA's productivity, and help the FCA accomplish its mission as an agency.

Therefore, the FCA Board adopts the following policy statement:

It is the policy of the FCA to resolve disputes in an effective and efficient manner. Many of the disputes encountered by the FCA are resolved most effectively and efficiently through settlement negotiations between the FCA and the other parties to the disputes prior to the initiation, or in the early stages of, more formal litigation or administrative adjudication. The FCA will continue to use settlement negotiations as a method of dispute resolution.

To the extent that there is a stalemate in settlement negotiations between the parties, the FCA will consider whether it is appropriate to use other forms of ADR. In assessing the advisability of using ADR procedures other than settlement negotiations, the FCA will consider whether such procedures are likely to reduce the FCA's transaction costs, increase the FCA's productivity, and help the FCA accomplish its mission of effective and efficient regulation. Section 4(b) of the Act, as codified at 5

U.S.C. 582(b), sets forth certain factors that the FCA will also consider in deciding whether it is appropriate to use such ADR procedures.

The FCA's Dispute Resolution Specialist (ADR Specialist), designated by the Chairman, as Chief Executive Officer, is responsible for the implementation of this policy statement. The ADR Specialist is available to assist FCA personnel in considering the appropriate application of ADR procedures. Before deciding whether it is appropriate to use an ADR procedure other than settlement negotiations, FCA personnel will consult with, and obtain the concurrence of, the ADR Specialist or his/her designee.

The ADR Specialist and those FCA personnel involved in resolving disputes are encouraged to attend educational and training programs relating to the theory and application of ADR on a regular basis, as the FCA budget permits.

Based on the voluntary nature of ADR, all parties to a dispute must agree to use an ADR procedure before it can be initiated.

Dated this 16th day of July, 1992.

By Order of the Board.

Signature date: July 21, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-17601 Filed 7-24-92; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1900]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

Petitions for reconsideration have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to these petitions must be filed by August 11, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b),

Table of Allotments, FM Broadcast Stations. (Brenham, Texas) (RM No. 7553) Number of Petitions Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM

Broadcast Stations. (Crestview and Wastby, Florida) (MM Docket No. 90-91, RM-7108) Number of Petitions Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Boonville and Columbia, Missouri) (MM Docket No. 91-135, RM-7697) Number of Petitions Filed: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-17632 Filed 7-24-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of March 31, 1992

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on March 31, 1992.¹ The Directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests a strengthening in domestic final spending, although industrial production and overall employment do not appear to have picked up correspondingly. Retail sales registered large gains in January and February, with data on inventories, which are available through January, showing some offsetting decline in that month. Single-family housing starts increased substantially further in January and February. Recent data on orders and shipments of nondefense capital goods indicate an increase in outlays for business equipment, but non-residential construction has remained in a steep decline. The nominal U.S. merchandise trade deficit narrowed slightly in January and was essentially unchanged from its average rate in the fourth quarter. Industrial production rose considerably in February, partly reflecting an upturn in motor vehicle assemblies, but was little changed on balance over the first two months of the year. Total nonfarm payroll employment rebounded in February from a large decline in January. With the labor force growing appreciably in recent months, the civilian unemployment rate has risen to 7.3 percent. Wage and price increases have continued to trend downward.

Most interest rates have risen appreciably since the Committee meeting on February 4-5. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies increased substantially over the intermeeting period.

¹Copies of the Record of policy actions of the Committee for the meeting of March 31, 1992, are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Growth of M2 and M3 accelerated in February, but M2 appears to have leveled off and M3 to have declined in March. Much of the growth in the broader aggregates over recent months has been accounted for by a surge in transactions balances.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in February established ranges for growth of M2 and M3 of 2-1/2 to 6-1/2 percent and 1 to 5 percent, respectively, measured from the fourth quarter of 1991 to the fourth quarter of 1992. The monitoring range for growth of total domestic nonfinancial debt was set at 4-1/2 to 8-1/2 percent for the year. With regard to M3, the Committee anticipated that the ongoing restructuring of depository institutions would continue to depress the growth of this aggregate relative to spending and total credit. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure of reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, slightly greater reserve restraint might or slightly lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from March through June at annual rates of about 3-1/2 and 1-1/2 percent, respectively.

By order of the Federal Open Market Committee, July 20, 1992.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 92-17587 Filed 7-24-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0300]

Drug Export; Human Immunodeficiency Virus Type 2 (HIV-2) Western Blot Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cambridge Biotech Corp. has filed an application requesting approval for the export of the biological product Human Immunodeficiency Virus Type 2

(HIV-2) Western Blot Kit to Australia, Belgium, Canada, Denmark, France, The Federal Republic of Germany, Italy, Japan, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frederick W. Blumenschein, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Cambridge Biotech Corp., 365 Plantation St., Worcester, MA 01605, has filed an application requesting approval for the export of the biological product Human Immunodeficiency Virus Type 2 (HIV-2) Western Blot Kit to Australia, Belgium, Canada, Denmark, France, The Federal Republic of Germany, Italy, Japan, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom. The Cambridge Biotech HIV-2 Western Blot Kit is an in vitro qualitative assay for the detection and identification of antibodies reactive to Human Immunodeficiency Virus Type 2 (HIV-2) antigens in human serum or plasma. It is intended for use with persons of unknown risk as an additional, more specific test for antibodies to HIV-2 in human serum or plasma specimens found repeatably reactive by screening

procedures, such as enzyme-linked immunosorbent assay (ELISA). The application was received and filed in the Center for Biologics Evaluation and Research on June 18, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by August 6, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: July 15, 1992.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[Fr Doc. 92-17618 Filed 7-24-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92N-0301]

Drug Export; Influenza Virus Vaccine, Subvirion, Trivalent Types A and B

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Connaught Laboratories Inc., has filed an application requesting approval for the export of the biological product Influenza Virus Vaccine, Subvirion, Trivalent Types A and B to Denmark, Finland, Norway, Sweden, and the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug

Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frederick W. Blumenschein, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the *Federal Register* within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Connaught Laboratories, Inc., Rt. 611, P.O. Box 187, Swiftwater, PA 18370, has filed an application requesting approval for the export of the biological product Influenza Virus Vaccine, Subvirion, Trivalent Types A and B to Denmark, Finland, Norway, Sweden, and the United Kingdom. The influenza virus vaccine is infected with a specific type of influenza virus to reduce the likelihood of infection and lessens the severity of disease if infection occurs. The application was received and filed in the Center for Biologics Evaluation and Research on June 22, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by August 6, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: July 15, 1992.

Thomas S. Bozzo,
Director, Office of Compliance, Center for
Biologics Evaluation and Research.
[FR Doc. 92-17619 Filed 7-24-92; 8:45 am]
BILLING CODE 4160-01-F

[Docket No. 92N-0302]

Drug Export: MTS Anti-IgG Card™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Micro Typing Systems, Inc., has filed an application requesting approval for the export of the biological product MTS Anti-IgG Card™ to Canada and Switzerland.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frederick W. Blumenschein, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the *Federal Register* within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that

Micro Typing Systems, Inc., 1295 SW. 29th Ave., Pompano Beach, FL 33069, has filed an application requesting approval for the export of the biological product MTS Anti-IgG Card™ to Canada and Switzerland. The MTS Anti-IgG Card™ is a combination of the Antiglobulin reagent incorporated into gel, known as the MTS Gel Test System to be used for the direct and indirect antiglobulin test. The application was received and filed in the Center for Biologics Evaluation and Research on June 3, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by August 6, 1992 and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: July 15, 1992.

Thomas S. Bozzo,
Director, Office of Compliance, Center for
Biologics Evaluation and Research.
[FR Doc. 92-17620 Filed 7-24-92; 8:45 am]
BILLING CODE 4160-01-F

[Docket No. 83N-0363]

Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology: Nucleic Acid Characterization and Genetic Stability; Supplement to Points to Consider; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a supplement entitled, "Points to Consider in the Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology: Nucleic Acid

Characterization and Genetic Stability." The supplement has been developed to revise and update information in a previously issued points to consider (PTC) document in order to improve the document's usefulness; it is neither a regulation nor a guideline, but represents the current thinking of the Center for Biologics Evaluation and Research (CBER).

ADDRESSES: Submit written requests for single copies of the PTC and supplement to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, except that written requests delivered by carriers other than the U.S. Postal Service should be submitted to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, Suite 109, Metro Park North 3, 7564 Standish Pl., Rockville, MD 20855. Send two self-addressed, adhesive labels to assist that office in processing your requests. Submit written comments on the PTC and supplement to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. "Points to Consider in the Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology: Nucleic Acid Characterization and Genetic Stability" and comments received are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: S. J. Whidden, Center for Biologics Evaluation and Research (HFB-132), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 2, 1989 (54 FR 46305), FDA last announced the availability of the PTC entitled "Points to Consider in the Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology" (draft of April 10, 1985). The agency is now announcing the availability of a supplement to this PTC document. This supplement presents guidance regarding the characterization of the expression construct for the production of recombinant deoxyribonucleic acid (DNA) protein products in eukaryotic and prokaryotic

cells. The expression construct is defined as the expression vector containing the coding sequence of the recombinant protein. Characterization of the expression construct was one of the PTC issues addressed. Since that time there have been advances in analytical technologies for protein and nucleic acid characterization, which have occurred in parallel with advances in fermentation and cell culture technologies. At present, it is believed that analytical data derived from either nucleic acid testing or protein structural testing alone do not allow for a complete evaluation of the identity and purity of a recombinant protein product.

As technology advances, CBER may consider new information and may revise this document, if needed. This document is intended to extend and clarify the types of information that are considered valuable in assessing the structure of the expression construct used to produce recombinant DNA proteins. In developing this document, CBER has attempted to take into consideration recent advances in biochemical technology, past history of different production systems, information derived from international meetings, and comments submitted to FDA.

This PTC supplement presents new information, summarizes certain available information and directs attention to regulations, PTC documents, and other related documents that are pertinent to development of such products. In response to future requests for the PTC, "Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology: Nucleic Acid Characterization and Genetic Stability," FDA will send the original PTC and this PTC supplement.

The current guidelines, PTC documents, and other related documents referenced in the PTC and supplement may be obtained from the Congressional, Consumer, and International Affairs Branch (address above).

The recommendations included in this information package are not requirements. A manufacturer may choose to use alternative procedures even though they are not described in the PTC and this PTC supplement. A manufacturer who wishes to use other procedures is encouraged to discuss the matter with the agency. Interested persons are encouraged to use this opportunity to submit comments on the PTC supplement if they have suggestions. The comments will be reviewed by FDA to determine whether the material provided should be revised

or if additional information should be included in the PTC supplement.

Dated: July 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-17621 Filed 7-24-92; 8:45 am]

BILLING CODE 4160-01-F

Health Care Financing Administration

[OPHC-025-N]

Health Maintenance Organizations; HMO Qualification Determinations and Compliance Actions

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth the names, addresses, service areas or modified service areas, and dates of qualification or expansion of entities determined to be Federally qualified health maintenance organizations (FQHMOs) during the period August 6, 1991 through March 31, 1992. Additionally, it sets forth compliance actions taken by the Office of Prepaid Health Care Operations and Oversight for the period September 1, 1991 through March 31, 1992. This notice is in accordance with our regulations at 42 CFR 417.144 and 417.163, which require publication in the Federal Register of certain determinations relating to FQHMOs.

FOR FURTHER INFORMATION CONTACT: Christine Boesz, (202) 619-0840.

SUPPLEMENTARY INFORMATION:

A. Qualification Determinations

As part of our evaluation and determination of qualification of an entity as a Federally qualified health maintenance organization (FQHMO), our regulations at 42 CFR 417.144(e), promulgated under Title XIII of the Public Health Service Act (the Act) (42 U.S.C. 300e), require publication in the Federal Register of the names, addresses and descriptions of the service areas of new FQHMOs. We interpret this requirement as applying to revisions of service areas of currently approved FQHMOs, as well. Our last notice containing this information was published January 6, 1992 (57 FR 413).

There are three categories of FQHMOs: Operational, transitionally qualified, and pre-operational (see 42 CFR 417.141 for definitions of these terms).

The Office of Prepaid Health Care Operations and Oversight, HCFA, under delegation of authority from the

Secretary, has determined that the following entities are operational FQHMOs under section 1310(d) of the Act (42 U.S.C. 300e-9(d)) or have expanded their previously qualified service areas:

1. New FQHMOs

a. *IHC Group, Inc. (IHC)* (Group Model, see section 1310(b)(1) of the Act), 36 South State, 14th Floor, Salt Lake City, Utah 84174. IHC's Federally qualified service area includes the following counties in their entirety: Davis, Salt Lake, Utah, and Weber.

Date of qualification: August 23, 1991.

b. *PCA Health Plans of Florida, Inc. (PCA)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 6101 Blue Lagoon Drive, Suite 300, Miami Beach, Florida 33126. PCA's Federally qualified service area of Miami includes Broward and Dade Counties in their entirety and the following zip codes in Palm Beach County:

Palm Beach County

| | |
|---------------------|-------|
| 33401 through 33419 | 33480 |
| 33424 through 33429 | 33483 |
| 33431 through 33439 | 33484 |
| 33441 through 33447 | 33486 |
| 33458 through 33470 | 33487 |
| 33477 | 33494 |

33478 33496 through 33498.

Date of qualification: August 27, 1991.

c. *Gulf South Preferred Health Plan, Inc. (GSPHP)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 5615 Corporate Boulevard, Suite 5, Baton Rouge, Louisiana 70808. GSPHP's Federally qualified service area includes the following parishes in their entirety: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge, and West Feliciana.

Date of qualification: September 17, 1991.

2. Service Area Expansions and Regional Components of Existing FQHMOs

a. *Bay State Health Care (BSHC)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 101 Main Street, Cambridge, Massachusetts 02142. BSHC's previously Federally qualified service area has been expanded into Barnstable, Essex, Middlesex,

Nantucket Island, Norfolk, Plymouth, Suffolk and Worcester Counties and the following zip codes in Bristol County:

Bristol County

| | | |
|-----|---------------------|-------|
| 031 | 02714 | 02771 |
| 048 | 02715 | 02777 |
| 334 | 02717 | 02779 |
| 356 | 02718 | 02780 |
| 357 | 02725 | 02790 |
| 375 | 02740 | 02791 |
| 702 | 02744 through 02748 | |
| 703 | 02760 through 02764 | |
| 712 | 02766 through 02769 | |

The following towns are excluded: Acushnet, Dartmouth, Fairhaven, Fall River, New Bedford, Somerset, Swansea, Westport.

Date of qualification for service area expansion: August 6, 1991.

b. *Bridgeway Plan for Health (BPH)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 1700 California Street, suite 500, San Francisco, California 94109. BPH's previously Federally qualified service area has been expanded to include Eldorado, Placer, Sacramento, Yolo Counties in their entirety, and the following zip codes in Marin and San Mateo Counties:

Marin

| | |
|---------------------|-------|
| 94901 through 94915 | 94952 |
| 94924 | 94956 |
| 94930 | 94957 |
| 94933 | 94960 |
| 94937 | 94963 |
| 94938 | 94964 |
| 94945 | 94970 |
| 94947 through 94950 | |

San Mateo

| | |
|-------|---------------------|
| 94002 | 94037 |
| 94010 | 94061 through 94065 |
| 94011 | 94070 |
| 94018 | 94301 through 94309 |
| 94019 | 94401 through 94404 |
| 94025 | |

Date of qualification for service area expansion: September 16, 1991.

c. *Greater Amarillo Health Plan (GAHP)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 1901 Medi Park, 2000, Amarillo, Texas 79106. GAHP's previously Federally qualified service area has been expanded to

include the following zip codes in Carson, Deaf Smith, Hutchinson, Moore, Oldham, and Swisher Counties:

| | |
|------------|---------------------|
| Carson | 79039, 79080, 79097 |
| Deaf Smith | 79045 |
| Hutchinson | 79007, 79078 |
| Moore | 79029 |
| Oldham | 79001 |
| Swisher | 79088 |

Date of qualification for service area expansion: October 1, 1991.

d. *Health Maintenance of Oregon (HMO)* (Individual Practice Association Model, see sections 1302(5) and 1310(b)(2)(A) of the Act), 1800 SW. First Avenue, Portland, Oregon 97201. HMO's previously Federally qualified service area has been expanded to include the following counties in their entirety in Oregon and Washington: Oregon—Columbia, Hood River, remainder of Clackamas; Washington—Clark, Klickitat, and Skamania.

Date of qualification for service area expansion: November 1, 1991.

e. *PCA Health Plans of California (PCA)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 3201 Del Paso Boulevard, Sacramento, California 95815. PCA's previously Federally qualified service area has been expanded to include Butte, Colusa, Glenn, Sierra, Sutter and Yuba Counties in their entirety, and the following zip codes of Plumas, Solano and Yolo counties:

| Plumas County | | Solano County | Yolo County |
|---------------|-------|---------------|-------------|
| 95915 | 95983 | 95620 | 95606 |
| 95923 | 95984 | | 95607 |
| 95934 | 96020 | | 95627 |
| 95947 | 96103 | | 95637 |
| 95952 | 96105 | | 95679 |
| 95956 | 96106 | | 95694 |
| 95971 | 96122 | | 95697 |
| 95980 | 96135 | | 95698 |
| | | | 95937 |

Date of qualification for service area expansion: November 6, 1991.

f. *Community Health Network of Louisiana, Inc. (CHNL)* (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 2431 South Acadian Thruway, Suite 350, P.O. Box 80159, Baton Rouge, Louisiana 70898. CHNL's Federally qualified regional component includes the following parishes in Louisiana in their entirety: Jefferson, LaFourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne, and Washington.

Date of qualification for the regional component: December 23, 1991.

B. Compliance Actions

Section 1312(b)(1) of title XIII of the Act and implementing regulations at 42 CFR 417.163(c)(1) and 417.163(d)(1), which set forth procedures for enforcing the assurance given to the Secretary by FQHMOs, require us to publish a notice in the *Federal Register* when we determine that an entity is not in compliance with qualification requirements for FQHMOs, or when we revoke an FQHMO's qualification. In a noncompliance notice, the FQHMO is directed to initiate corrective action within 30 days of the date of the notice or within any longer period that the Secretary determines to be reasonable. If the Secretary determines that a FQHMO has failed to initiate corrective action in accordance with the notice of noncompliance or has not carried out or refuses to carry out corrective action, the Secretary will revoke the entity's Federal qualification and will notify them of this action. In this notification, we provide the FQHMO with an opportunity to request a reconsideration of the revocation, including a fair hearing. If an FQHMO requests a reconsideration of the revocation notice, the Secretary will reissue a revocation notice and no further administrative remedy is available to the FQHMO. The final decision (either to revoke Federal qualification or restore the FQHMO to compliance status) resulting from the reconsideration process will be published in the *Federal Register*.

The Office of Prepared Health Care Operations and Oversight gives notice of the following compliance actions affecting FQHMOs for the period September 1, 1991 through March 31, 1992:

1. Letters of Noncompliance

a. Kaiser Foundation Health Plans of Georgia, Inc., Atlanta, Georgia

On November 27, 1992 we issued a letter of noncompliance to Kaiser Foundation Health Plans of Georgia, Inc. We initiated noncompliance action because of a continued lack of financial plan development and inadequate administration and management in support of the financial planning process. The financial plan and supporting assumptions submitted have been determined to be unacceptable due to significant and unanticipated operating losses accrued within 9 months of the financial plan development. The HMO's monthly and quarterly reporting of assumptions

submitted have been determined to be unacceptable due to significant and unanticipated operating losses accrued within 9 months of the financial plan development. The HMO's monthly and quarterly reporting of financial performance is being monitored on a continuing basis against the financial plan.

b. Health Guard, Bellair, Ohio

On December 18, 1991 Health Guard was placed in noncompliance based on continued operating losses, negative working capital and absence of adequate available financing. Financial performance is being monitored on a continuing basis.

c. Group Health Association, Inc., Washington, DC

On March 31, 1992, a letter of noncompliance was issued to Group Health Association, Inc. for not maintaining satisfactory administrative and managerial arrangements. More specifically, the plan's computerized complaint monitoring system, housed in its administrative offices, includes data that are not representative of GHA's enrollment population.

2. Notices of Revocation

| Organization | Date issued | Reason |
|--|-------------|------------------------------------|
| Ocean State Health Plan, Providence, Rhode Island. | 01/01/92 | Voluntary relinquishment. |
| Share of Nebraska, Omaha, Nebraska. | 01/01/92 | Voluntary relinquishment. |
| Travelers Health Network of Austin, Richardson, Texas. | 01/14/92 | Voluntary relinquishment (Merger). |
| Group Health Partnership, Philadelphia, Pennsylvania. | 03/03/92 | Voluntary relinquishment. |

C. Availability of Additional Information

A cumulative list of FQHMOs and additional information may be obtained by writing to the following address: Office of Prepaid Health Care Operations and Oversight, Health Care Financing Administration, Room 4406 Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

The list also may be obtained by visiting that office between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday, except for Federal holidays. Interested persons should contact

Margie Ridley for an appointment, telephone (202) 619-2756.

Authority: (42 U.S.C. 300e) Title XIII of the Public Health Service Act.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 10, 1992.

William Toby,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 92-17637 Filed 7-24-92; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

National Institute of General Medical Sciences; Meeting of the National Advisory General Medical Sciences Council

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on September 14 and 15, 1992, Building 31, Conference Room 6, Building 31, Bethesda, Maryland.

This meeting will be open to the public on September 14, Building 31, Conference Room 6, from 8:30 a.m. to 11 a.m. for opening remarks; the report of the Director, NICMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on September 14 from 11 a.m. to 5:30 p.m. and on September 15, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, room 4A52, Bethesda, Maryland 20892, telephone: 301-496-7301 will provide a summary of the meeting, and a roster of Council members. Dr. W. Sue Shafer, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood

Building, room 938, Bethesda, Maryland 20892, telephone: 301-496-7061 will provide substantive program information upon request.
(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: July 17, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-17589 Filed 7-24-92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 57 FR 21120, May 18, 1992) is amended to reflect the revision of the functional statement for the Office of the Director, Personnel Management Office, Office of Program Support.

Section HC-B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the heading and functional statement for the *Office of the Director (HCA571)* and substitute the following:

Office of the Director (HCA571). (1) Provides leadership and technical guidance to CDC in planning, coordinating, and conducting an effective personnel and labor-management relations program for civil service, Commissioned Corps, and visiting program personnel; (2) plans, directs, and evaluates the activities of the Personnel Management Office; (3) advises the Director, CDC, and other CDC management staff on all matters relating to personnel management.

Effective Date: July 9, 1992.

William L. Roper,

Director, Centers for Disease Control.

[FR Doc. 92-17628 Filed 7-24-92; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-931-430-11, Closure Notice NV-030-92-04]

Shooting Closure; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Shooting closure, notice.

SUMMARY: Notice is hereby given that the area north of Reno near Winnemucca Ranch Road known as Moon Rocks will hereafter be closed to shooting to protect persons and property. The public lands described by this closure lie within the Mt. Diablo Meridian, T. 23 N., R. 20 E., unsurveyed sec. 21, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$. Among other uses, this area is an unimproved campground and staging area for motorcycle events. It should be noted that the shooting restriction does not prohibit legitimate hunting activities, and therefore does not conflict with Nevada Department of Wildlife Regulations. This rule will be posted at the Moon Rocks. Recreational shooters may use other public lands where public safety is not at risk.

DATES: This closure goes into effect on September 15, 1992, and will remain in effect until the Carson City District Manager determines it is no longer needed.

COMMENT PERIOD: The BLM requests comments from the public concerning this closure notice. The comment period will be open until September 5, 1992. Comments received or postmarked after the close of the comment period may not be considered in making the final decision regarding this closure.

FOR FURTHER INFORMATION CONTACT: James M. Phillips, Area Manager, Bureau of Land Management, 1535 Hot Springs Rd., #300, Carson City, NV 89706, (702) 885-6000.

SUPPLEMENTARY INFORMATION: The authority for this closure is 43 CFR 8364.1(a) and 8365.1-6. Any person who fails to comply with a closure order is subject to arrest and fines of up to \$1,000.

A map showing the closed area is posted in the Carson City District Office.

Dated: July 20, 1992.

James W. Elliott,

Carson City District Manager.

[FR Doc. 92-17635 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-HC-M

[WY-920-02-4143-11; WYW127208]

Coal Leases, Wyoming; Correction

AGENCY: Bureau of Land Management, Interior, Wyoming.

ACTION: Notice of correction legal description.

SUMMARY: This notice corrects an error in the legal description for a Notice of Invitation for sodium exploration license WYW127208, which appeared in the Federal Register on July 20, 1992, (57 FR 32024). The legal description in the Notice of Invitation reads:

T. 17 N., R. 108 W., 6th P.M., Wyoming.
Sec. 6: Lots 8 thru 14, S2NE, SENW, E2SW, SE;

Sec. 8: All;
Sec. 18: All;
Sec. 20: All;
Sec. 28: All;
Sec. 30: Lots 5 thru 8, E2W2, E2;
Sec. 34: All.

T. 17 N., R. 109 W., 6th P.M., Wyoming.
Sec. 12: Lots 1 thru 10, SW, W2SE;
Sec. 14: All;
Sec. 20: All;
Sec. 22: All;
Sec. 24: Lots 1 thru 16;
Sec. 26: All;
Sec. 28: All.

Containing 8305.88 acres.

The legal description in the Notice of Invitation should read:

T. 17 N., R. 108 W., 6th P.M., Wyoming.
Sec. 6: Lots 8 thru 14, S2NE, SENW, E2SW, SE;

Sec. 8: All;
Sec. 18: Lots 5 thru 8, E2W2, E2;
Sec. 20: All;
Sec. 28: All;
Sec. 30: Lots 5 thru 8, E2W2, E2;
Sec. 34: All.

T. 17 N., R. 109 W., 6th P.M., Wyoming.
Sec. 12: Lots 1, 4 thru 6, 8 thru 10, SWSE, SW;
Sec. 14: All;
Sec. 20: All;
Sec. 22: All;
Sec. 24: Lots 1 thru 16;
Sec. 26: All;
Sec. 28: All.

Containing 8,624.41 acres.

The notice of Invitation is also changed to reflect that any party electing to participate in the exploration program must send written notice to United States Borax & Chemical Corporation, Western Regional Exploration Office, Attn: Robert J. Kellie, 255 Glendale Ave., Suite 19, Sparks NV 89431. The balance of the Notice of Invitation remains unchanged.

Lynn E. Rust,

Chief Branch of Mining Law & Solid Minerals.

[FR Doc. 92-17625 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-22-M

[CO-070-0-4410-13-241A]

Grand Junction District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of meeting.

SUMMARY: The Grand Junction District Advisory Council will meet on Thursday, August 20, 1992. The meeting will convene at 9 a.m. in the third floor conference room at the Bureau of Land Management Office, 2815 H Road, Grand Junction, Colorado.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include (1) introduction, (2) opening remarks by District Manager, (3) discussion on future functions of the council, (4) updates on current issues within the Grand Junction Resource Area and (5) discussion of issues that the Council can act upon (supplementary information will be provided to members via mail.)

The meeting is open to the public. Interested persons may make oral statements to the Council between 11 and 11:30 a.m. to file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2815 H Road, Grand Junction, Colorado, 81506 by August 15, 1992. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Council meeting will be available for public inspection in the District Office thirty (30) days following the meeting.

FOR FURTHER INFORMATION CONTACT: Tim Hartzell, District Manager, Grand Junction District Office, Bureau of Land Management, 2815 H Road, Grand Junction, Colorado 891506, phone (303) 244-3000.

Tim Hartzell,

District Manager.

[FR Doc. 92-17440 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-JB-M

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Rock Springs District Advisory Council.

DATES: September 9 and 10, 1992, 8:30 a.m. until 4:30 p.m.

ADDRESSES: Rock Springs District Office, Bureau of Land Management, Highway 191 North, Rock Springs, Wyoming 82901.

FOR FURTHER INFORMATION CONTACT: Gene Kinch, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902-1869, (307) 382-5350.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Introduction and opening remarks.
2. Review minutes of last meeting.
3. Status of the Green River Resource Management Plan.
4. Wilderness Study Area Land Exchanges.
5. Wild Horse Management Status and Projections.
6. Municipal Landfills on Public Lands.
7. Grazing Allotment Adjustments-Kemmerer Resource Area.
8. ADC Proposal and Review.
9. Oil and Gas Update.
10. Bone Draw Review.
11. Public Comment Period.

The meeting is open to the public. Interested persons may make oral statements to the Council between 2 and 3 p.m. on September 10, or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager at the above address by September 8.

Depending on the number of persons wishing to make oral statements, at time limit per person may be established by the District Manager.

John S. McKee,

Associate District Manager.

[FR Doc. 92-17605 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-22-M

[NV-930-92-4212-14; N-53169]

Realty Action; Non-Competitive Sale of Public Lands in Clark County, NV

The following described public land in the community of Cal-Nev-Ari, Clark County, Nevada, has been determined to be suitable for sale utilizing non-competitive procedures, at not less than the fair market value. Authority for the sale is section 203 of Pub. L. 94-579, the Federal Land Policy and Management Act of 1976 (FLPMA). The lands will not

be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Mount Diablo Meridian, Nevada

T. 30 S., R. 63 E.,

Sec. 25: E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Sec. 36: N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$

T. 30 S., R. 64 E.,

Sec. 31: Lots 5 through 12

Aggregating 31.78 acres (gross).

This parcel of land, situated in Cal-Nev-Ari, is being offered as a direct sale to Nancy L. Kidwell as a result of occupancy trespass that has occurred on public lands. The lands will be sold at not less than fair market value as determined by appraisal. The subject land is not required for any Federal purposes. The sale is consistent with the Bureau's planning system. The sale of this parcel would be in the public interest.

In the event of a sale, conveyance of all mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a \$50.00 nonreturnable filing fee for conveyance of the mineral interests.

The patent, when issued, will contain the following reservations to the United States: A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945, and will be subject to: An easement for streets, roads, public utilities, and flood control purposes in accordance with the transportation plan for Clark County.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any

[WY-040-09-4370-13]

Rock Springs District Advisory Council; Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting of the Rock Springs District Advisory Council.

or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Public Law 94-579, or other applicable laws.

Dated: July 13, 1992.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 92-17442 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-HC-M

[WY-040-3110-10-K004]

Big Sandy Management Framework Plan, Sweetwater and Fremont Counties, WY; Intent To Evaluate an Exchange Proposal and Possible Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Evaluate an Exchange Proposal and Possible Amendment of the Big Sandy Management Framework Plan; Vacation Notice; Sweetwater and Fremont Counties, Wyoming.

SUMMARY: The Bureau of Land Management has received an exchange proposal from the State of Wyoming to exchange 1,280 acres of State of Wyoming land located inside the Honeycomb Buttes Wilderness Study Area for some portion of 2,560 acres of Federal land administered by the Bureau of Land Management. The following described public land located in Sweetwater and Fremont Counties, are being considered for exchange to the State of Wyoming under the authority of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Selected Public Lands

Sixth Principal Meridian

T. 26 N., R. 98 W., sec. 29, all;

Sec. 31, all;

Sec. 32, all;

Sec. 33, all.

The above land contains 2,560 acres.

Some of the lands described above may be deleted from consideration to eliminate the possible conflicts that could arise during processing or to achieve equal values between the offered and selected lands in the exchange.

In exchange, the United States proposes to acquire the following land from the State of Wyoming:

T. 26 N., R. 99 W., sec. 16, all.

T. 27 N., R. 100 W., sec. 36, all.

The above land aggregates 1,280 acres.

The Notice of Preparation of an Environmental Assessment, which was published on July 2, 1992, in 57 FR 29525, is hereby vacated.

FOR FURTHER INFORMATION CONTACT:

Bill LeBarron, Area Manager, Green River Resource Area, 1993 Dewar Drive, Rock Springs, Wyoming 82901, 307-362-6422.

SUPPLEMENTARY INFORMATION: The exchange is proposed to facilitate more effective public land management by consolidating Federal ownership within the Honeycomb Buttes Wilderness Study Area in order to preserve the wilderness values. The proposal exchange would be on an equal value basis. Commercial development of the State inholdings in the Honeycomb Buttes Study Area would conflict with a wilderness designation and a wilderness designation would limit the commercial or economic utility of the State land inholdings to the State. Evaluation of this proposal may result in an amendment to the BLM Big Sandy Management Framework Plan. Information and scoping mail-out packets for the proposed exchange, Environmental Analysis (EA), and possible Amendment of the Big Sandy Management Framework Plan, may be obtained by calling or writing the Green River Resource Area Office at the above address. Scoping comments should also be sent to this address.

The publication of this notice segregates the Federal land described above from settlement, sale, location, and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206(b) of the Federal Land Policy and Management Act of 1976. The segregative effect shall terminate upon issuance of patent, upon publication in the Federal Register of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first. For a period of thirty (30) days from the date of issuance of this notice, interested parties may submit comments to the Bureau of Land Management, District Manager, Rock Springs, Highway 191 North, Rock Springs, Wyoming 82902.

Dated: July 16, 1992.

William W. LeBarron,

Area Manager.

[FR Doc. 92-17604 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-22-M

[ES-962-9800-12; ES-045435, Group 183, Florida]

Filing of Plat of the Dependent Resurvey

The plat of the dependent resurvey of a portion of the south, east, west, and north boundaries, a portion of the subdivisional lines, the survey of the subdivision of sections 13, 20, 21, 22, 24, 26, 27, 28, 29, 30, 35 and 36; and the metes-and-bounds survey of certain parcels in sections 13 and 24, Township 17 South, Range 26 East, Tallahassee Meridian, Florida, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on September 9, 1992.

The survey was made upon request submitted by the U.S. Forest Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., September 9, 1992.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of \$1.75 per copy.

Dated: July 16, 1992.

Larry Hamilton,

Acting State Director.

[FR Doc. 92-17580 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-GJ-M

[MT-940-08-4520-11]

Land Resource Management

AGENCY: Montana State Office, Bureau of Land Management, Interior.

SUMMARY: Plats of survey for the following described land accepted May 13, 1992, will be officially filed in the Montana State Office, Billings, Montana, effective 30 days after publication.

Fifth Principal Meridian, South Dakota

T. 93 N., R. 62 W.

The plat, in two sheets, representing the dependent resurvey of portions of the west boundary, the subdivisional lines, certain lot lines, subdivision of certain sections, and the adjusted original meanders of the former left bank of the Missouri River; and the survey of the east and west center lines of section 20, north and south center lines of certain sections, a portion of the present left bank of the Missouri River, and certain division of accretion lines, Township 93 North, Range 62 West, Fifth Principal Meridian, South Dakota. T. 93 N., R. 63 W.

The plat, in two sheets, representing the dependent resurvey of portions of the west boundary, the north boundary, the subdivisional lines, the subdivision of certain sections, and the adjusted original meanders of the former left bank of the Missouri River; and the survey of the north and south center lines of certain sections, the east and west center line of NW¼SE¼ of section 6, a portion of the present left bank meanders of the Missouri River, and certain division of accretion lines, Township 93 North, Range 63 West, Fifth Principal Meridian, South Dakota. T. 94 N., R. 64 W.

The plat, in two sheets, representing the dependent resurvey of portions of certain lot lines, the south boundary, the east boundary, the subdivisional lines, the subdivision of certain sections, and the adjusted original meanders of the former left bank of the Missouri River; and the survey of the north and south center lines of certain sections, the east and west center line of the NW¼NE¼ of section 36, the present left bank of the Missouri River, and certain division of accretion lines, Township 94 North, Range 64 West, Fifth Principal Meridian, South Dakota. T. 94 N., R. 65 W.

The plat representing the dependent resurvey of portions of the north boundary, the east boundary, the subdivisional lines, the subdivision of certain sections, and the adjusted original meanders of the former left bank of the Missouri River; and the survey of the division of original lot 4 of section 12, the line between lots 2 and 3 of section 13, certain division of accretion lines, and the present left bank meanders of the Missouri River through Township 94 North, Range 65 West, Fifth Principal Meridian, South Dakota. T. 95 N., R. 65 W.

The plat representing the dependent resurvey of portions of the subdivisional lines, and the subdivision of certain sections, and the survey of a portion of the meanders of the present left bank of the Missouri River, Township 95 North, Range 65 West, Fifth Principal Meridian, South Dakota.

The triplicate original of the preceding described plats will be immediately placed in the open files and will be available to the public as a matter of information. Copies of the plats and related field notes may be furnished to the public upon payment of the appropriate fee.

If a protest against these surveys, as shown on the plats, is received prior to the date of official filing, the filing will

be stayed pending consideration of the protest. The protested plat of survey will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

This survey was executed at the request of the Bureau of Indian Affairs, Aberdeen Area Office.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: July 16, 1992.
Francis R. Cheery, Jr.,
Associate State Director.
[FR Doc. 92-17602 Filed 7-24-92; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Yosemite National Park; Phase II of the Concession Contract Solicitation; Informational Notice

The National Park Service will issue Phase II of the Statement of Requirements (Prospectus) for hotel, restaurant, and other services at Yosemite National Park in early July 1992. This notice is for information only. The initiation of a two phase contracting process was announced in the *Federal Register* on Monday, March 30, 1992. Twelve applicants have completed the Phase I process and have been invited by the National Park Service to participate in the Phase II process. Offers under the Phase II process will be due in accordance with the terms of the Statement of Requirements (Prospectus), Phase II. The due date is expected to be in November 1992. A selection of the new concessioner is expected to be completed by early 1993.

Dated: July 13, 1992.
Lewis S. Albert,
Acting Regional Director, Western Region.
[FR Doc. 92-17642 Filed 7-24-92; 8:45 am]
BILLING CODE 4310-70-M

Gates of the Arctic National Park Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Interior.
ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming joint meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

- (1) Roll call and review of agenda.
- (2) Approval of Minutes.
- (3) Superintendent's welcome:
 - a. Introduction of guests.
 - b. Review of SRC function and purpose.
- (4) SRC Member Subsistence Reports.
- (5) Federal Subsistence Management Program:
 - a. Subsistence Resource Advisory Council Program status report (nomination process).
 - b. Federal Board actions.
- (6) Hunting recommendations work session:
 - a. Status report on hunting plan recommendations submitted to the Secretary.
 - b. Status report on Hunting Plan Recommendation 4.
 - c. Review public and agency comments on Draft Hunting Plan Recommendation 5.
 - d. Review previous SRC resolutions.
 - e. Develop new draft hunting plan recommendations.
- (7) Superintendent's Report.
- (8) Public and other agency comments.
- (9) Set time and place of next SRC meeting.

DATE: The meeting will begin at 9 a.m. on Tuesday, August 4, 1992, and conclude around 5 p.m. The meeting will reconvene at 9 a.m. on Wednesday, August 5, 1992, and conclude around 5 p.m.

LOCATION: The meeting will be held at the Commacks Lodge, Shungnak, Alaska.

FOR FURTHER INFORMATION CONTACT: Roger Siglin, Superintendent, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456-0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul F. Haertel,
Acting Regional Director.
[FR Doc. 92-17645 Filed 7-24-92; 8:45 am]
BILLING CODE 4310-70-M

Mississippi River Corridor Study Commission Meeting

AGENCY: National Park Service, Interior.
ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the

Mississippi River Corridor Study Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE & TIME: August 25, 1992, 3:30 p.m. to 5 p.m., August 26, 1992, 8 a.m. to 3 p.m.

ADDRESSES: Radisson Plaza Hotel, 35 South 7th Street, Minneapolis, Minnesota 55402.

The business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the National Park Service, Midwest Region, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: David N. Given, Associate Regional Director, Planning and Resources Preservation, National Park Service, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102, (402) 221-3082.

SUPPLEMENTARY INFORMATION: The Mississippi River Corridor Study Commission was established by P.L. 101-398, September 28, 1990.

Dated: July 9, 1992.

William W. Schenk,

Acting Regional Director, Midwest Region.

[FR Doc. 92-17643 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-70-M

Advisory Commission of the San Francisco Maritime National Historical Park; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Advisory Commission of the San Francisco Maritime National Historical Park will be held from 1:30 p.m. to 4:30 p.m. (PDT) on Thursday, August 20, 1992 in Building A (Room A-1), Fort Mason, San Francisco, California. The Advisory Commission was established for a period of ten years by Public Law 100-348 to provide advice on the management and development of the park.

The main agenda items at this public meeting will be the presentation of progress reports on restoration work on the historic ships, and on the present status and future milestones for the park's General Management Plan. The public will have an opportunity for comments after each agenda item.

The meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes

of the meeting will be available to the public after approval by the Commission. Upon approval, a transcript will be available by contacting the Superintendent, San Francisco Maritime National Historical Park, Fort Mason, Building E, Second Floor, San Francisco, California 94123.

Dated: July 17, 1992.

Lewis S. Albert,

Acting Regional Director, Western Region.

[FR Doc. 92-17641 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-70-M

Santa Fe National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92-463, that a meeting of the Santa Fe National Historic Trail Advisory Council will be held on August 27-28, 1992, at 8:30 a.m., at the Hilton Plaza Inn, 45th and Main, Kansas City, Missouri.

The Santa Fe National Historic Trail Advisory Council was established pursuant to Public Law 90-543 establishing the Santa Fe National Historic Trail to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, as well as administrative matters.

The matters to be discussed include:

- Review of interpretive planning matters.
- Auto tour route signing.
- Fundraising proposals.
- Status of certification projects and agreements with cooperators.
- Historical research projects.
- Marketing.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with David Gaines, Trail Manager.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact David Gaines, Trail Manager, Santa Fe National Historic Trail, P.O. Box 728, Santa Fe, New Mexico 87504-0728, telephone 505/988-6888. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Trail Manager, located in room 358, Pinon Building, 1220 South St. Francis Drive, Santa Fe, New Mexico.

Dated: July 14, 1992.

Rick Smith,

Acting Regional Director, Southwest Region.

[FR Doc. 92-17644 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

- (1) The title of the form/collection;
- (2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
- (3) How often the form must be filled out or the information is collected;
- (4) Who will be asked or required to respond, as well as a brief abstract;
- (5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (6) An estimate of the total public burden (in hours) associated with the collection; and,
- (7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514-4115. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

- (1) Program for Registration of Claims Against Estonia, Latvia and Lithuania.

(2) FCSC Optional Form 2-92. Foreign Claims Settlement Commission of the United States (FCSC).

(3) One-time.

(4) Individuals or households, Businesses or other for-profit, Non-profit institutions and Small business or organizations. FCSC Optional Form 2-92 will be used to collect information to estimate value of U.S. nationals' outstanding claims against Estonia, Latvia, and Lithuania for uncompensated expropriation of property, to enable Department of State to determine whether to pursue *en bloc* settlement agreements with those countries, and amounts to be sought.

(5) 1,000 annual responses at 2.0 hour per response.

(6) 2,000 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: July 21, 1992.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 92-17598 Filed 7-24-92; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree Brought Under the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States v. Allied Products Corp.*, Civil Action No. C92-2043, was lodged with the United States District Court for the Northern District of Iowa on July 14, 1992. This Consent Decree resolves a Complaint filed by the United States against Allied Products Corporation pursuant to sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9606 and 9607.

The United States Department of Justice brought this action on behalf of the U.S. Environmental Protection Agency, seeking to recover costs incurred in response to contamination at the White Farm Equipment Dump Site ("the Site") in Charles City, Iowa, and to compel the cleanup of the Site. As part of the settlement in this case, Allied Products Corporation will perform a remedial action at the Site, and will reimburse the United States for costs incurred by the United States subsequent to the date of entry of the Consent Decree. This settlement does not require Allied Products Corporation to reimburse the United States for

approximately \$250,000 in costs it incurred prior to the entry of the Consent Decree.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *United States v. Allied Products Corp.*, DOJ number 90-11-2-665.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of Iowa, 425 Second Street SE, Suite 950, The Center, Cedar Rapids, Iowa 52401, and at the U.S. Environmental Protection Agency, Office of the Regional Counsel, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the proposed Consent Decree may also be examined at the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. When requesting a copy of the Consent Decree, please enclose a check in the amount of \$21.25 (25 cents per page reproduction costs) payable to the "Consent Decree Library."

John C. Cruden,

Chief Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-17651 Filed 7-24-92; 8:45 am]

BILLING CODE 4410-01-M

Automation Components, Inc.; Notice of Lodging of Consent Decree

In accordance with 42 U.S.C. 9622(i), notice is hereby given that on July 16, 1992 three proposed consent decrees in *United States of America v. Automation Components, Inc., et al.*, Civil Action No. 90-1279, were lodged with the United States District Court for the District of New Jersey. The United States' complaint sought recovery of response costs and/or penalties, and punitive damages under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), against the partnership of Sigmund & Presto, Dominick Presto, Randolph Products Company, the Estate of Wendell Randolph, and Matlack Systems, Inc. and 5 other defendants who failed to comply with

Administrative Orders issued to them by EPA and/or were responsible for hazardous wastes found at the Scientific Chemical Processing ("SCP") Site in Newark, New Jersey.

Pursuant to the terms of the first consent decree, the partnership of Sigmund & Presto and Dominick Presto shall pay a total of \$50,000 in past response costs incurred by the United States in connection with the SCP Site. Pursuant to the terms of the second consent decree, Matlack Corporation shall pay a total of \$75,000 in past response costs incurred by the United States in connection with the SCP Site and shall pay penalties and punitive damages totalling \$125,000. Pursuant to the terms of the third consent decree, Randolph Products shall pay a total of \$85,000 in past response costs incurred by the United States in connection with the SCP Site and the estate of Wendell Randolph, shall pay penalties and punitive damages totalling \$300,000.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Automation Components, Inc., et al.*, D.J. Ref. 90-11-2-488.

The proposed consent decree may be examined at the office of the United States Attorney, 970 Broad St., room 502, Newark, NJ 07102 and at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. The proposed consent decree may also be examined at the Consent Decree Library 601 Pennsylvania Avenue Building, NW., Washington, DC 20004, telephone (202) 347-2072. A copy of each proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004.

In requesting a copy of each consent decree, please enclose a check in the amount of \$6.00 per copy payable to the "Consent Decree Library."

Roger Clegg,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 92-17649 Filed 7-24-92; 8:45 am]

BILLING CODE 4410-01-M

Settlement Agreement With National Wildlife Federation in Action Under Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on June 23, 1992, the United States District Court for the District of Massachusetts approved and entered the following Settlement Agreement Between Plaintiffs the United States and the Commonwealth of Massachusetts and Intervenor National Wildlife Federation, in *United States v. AVX Corporation, et al.*, Civil Action Nos. 83-3882-Y, 83-3889-Y (D. Mass.).

Text of Agreement

Settlement Agreement Between Plaintiffs the United States and the Commonwealth of Massachusetts and Intervenor National Wildlife Federation

Introduction

1. The United States, on behalf of the National Oceanic and Atmospheric Administration (NOAA) as a federal trustee for natural resources, and the Commonwealth as a state trustee for natural resources, filed complaints in the U.S. District Court for the District of Massachusetts on December 9 and 10, 1983, respectively, seeking damages for injury to, destruction of, and loss of natural resources resulting from releases of polychlorinated biphenyls ("PCBs") and other hazardous substances in New Bedford Harbor, Massachusetts, and adjacent waters under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607 ("CERCLA").

2. The United States and the Commonwealth ("plaintiffs") amended their complaints in these actions in February 1984 to set forth, in addition to the claims for natural resource damages, claims on behalf of the Administrator of the Environmental Protection Agency ("EPA") for recovery of response costs under section 107 of CERCLA and for injunctive relief under section 106 of CERCLA, and claims on behalf of the Commonwealth for recovery of response costs under section 107 of CERCLA and state law.

3. Plaintiffs filed these actions in order to meet a potential statute of limitations deadline at a time when it was not possible for EPA to have prepared a Record of Decision ("ROD") regarding remedial action to be taken at the site, or for the federal and state natural resources trustees to have developed an estimate of the damages recoverable for natural resource injury.

4. In 1989, plaintiffs requested that the District Court defer previously-scheduled trial dates until after the remedial decision-making process was

complete and the final ROD had been issued by EPA. In asking the District Court to defer trial, plaintiffs explained that their "proposal will provide an opportunity for comprehensive settlement discussions at a time when the amount of defendants' potential liability for all of the governments' claims will be known." Plaintiffs' Memorandum in Support of Motion to Modify Court's Pretrial Orders, at 14 (Sept. 25, 1989).

5. Plaintiffs further explained that their "proposal comports with Congressional intent regarding the proper measurement of natural resource damage[s] under CERCLA and the relationship of such damage claims to the Agency's remedial decision-making, will result in a more efficient resolution of all claims in this case, and affords the parties a meaningful opportunity for productive settlement negotiations on all claims before any trial is held." *Id.* at 3.

6. Plaintiffs also explained that "[b]ecause EPA's selected remedy for the PCB contamination in New Bedford Harbor will then be known [following the issuance of the ROD], plaintiffs will be able to include in their natural resource claim an assessment of damages based on any costs to further restore or replace natural resources once EPA's remedial action is implemented * * *." *Id.* at 4.

7. The District Court did not grant plaintiffs' motion and thus declined to defer the trials on liability. Instead, the District Court only deferred trial on the amount of cleanup costs and natural resource damages. Faced with impending trials on liability, including causation of injury to natural resources, plaintiffs entered into settlement negotiations with the defendants based on the information regarding cleanup costs and natural resource damages then available.

8. The National Wildlife Federation ("NWF") was permitted to intervene in this action in April 1989 in order to brief and argue the legal requirements applicable to any proposed consent decree lodged with the District Court for consideration and approval. *In re Acushnet River & New Bedford Harbor: Proceedings Re Alleged PCB Pollution*, 712 F. Supp. 1019, 1023 (D. Mass. 1989).

9. On April 6, 1990, EPA issued an initial operable unit ROD selecting the remedial action for the area of New Bedford Harbor with the highest levels of PCB contamination (the "Hot Spot ROD"). The Hot Spot ROD calls for dredging of contaminated sediment and incineration of the dredged materials in a temporary treatment facility onshore. This portion of the remedial action was

estimated to cost approximately \$15 million.

10. On December 18, 1990, plaintiffs lodged a proposed consent decree with the District Court, which settled all of plaintiffs' claims against two of the five defendants named in the lawsuit, Aerovox Incorporated and Belleville Industries, Inc.

11. On May 24, 1991, after soliciting public comment on the proposed Aerovox/Belleville decree, plaintiffs filed a motion with the District Court for approval of the decree. The Aerovox/Belleville decree provided that these defendants would pay a total of \$12.6 million in settlement of the United States' claims for both past response costs and future cleanup costs and for natural resource damages. In exchange for this cash settlement, the decree provided Aerovox and Belleville with covenants not to sue for response and cleanup costs and natural resource damages, although it contained reservations of the governments' rights with respect to previously unknown conditions and new information.

12. In response to plaintiffs' motion, NWF argued that the District Court should not approve the Aerovox/Belleville decree because EPA, in April 1990, had only issued a ROD for one portion of the New Bedford Harbor site known as the "Hot Spot" region. NWF also maintained that plaintiffs should not be permitted to release Aerovox and Belleville from liability for natural resource damages because plaintiffs had not estimated the amount of money that would be needed to restore damaged resources in New Bedford Harbor.

13. In reply to NWF's objections to the proposed decree with Aerovox and Belleville, plaintiffs stated that, "as the record of this case demonstrates, the Plaintiffs generally agree with NWF that it is preferable to settle cleanup cost claims after EPA has made its cleanup decision and a specific estimate of the costs of cleanup is available." Plaintiffs' Reply Memorandum in Support of Motion to Enter Consent Decree With Aerovox Incorporated and Belleville Industries, Inc., at 9 (July 3, 1991) (emphasis in original). However, the District Court had denied in material part Plaintiffs' 1989 motion to defer trial until after the final ROD was issued, and plaintiffs took the position that, under these circumstances, they were not "prohibited from negotiating an otherwise favorable pretrial settlement containing a covenant not to sue." *Id.* (emphasis omitted).

14. On July 18, 1991, the District Court granted plaintiffs' motion to approve the Aerovox/Belleville decree. NWF

appealed this ruling to the United States Court of Appeals for the First Circuit. In a decision dated April 21, 1992, the Court of Appeals dismissed NWF's appeal for lack of jurisdiction without reaching the merits of NWF's arguments. See *United States v. AVX Corporation*, No. 91-1895 (1st Cir., April 21, 1992).

15. On September 19, 1991, plaintiffs filed with the District Court a proposed consent decree with defendant AVX Corporation and, December 20, 1991, plaintiffs moved the District Court to approve the decree. Under the AVX decree, plaintiffs will recover \$66 million, plus interest accrued on that amount from August 23, 1990 to the date payment is made, to compensate plaintiffs for response and cleanup costs and natural resource damages. In exchange for this cash settlement, plaintiffs granted AVX covenants not to sue for response and cleanup costs and natural resource damages. The AVX decree contains reservations of the governments' rights with respect to previously unknown conditions and new information, and also provides that plaintiffs may "institute proceedings against AVX in this action or in a new action seeking to compel AVX (1) to perform additional response actions in connection with the Remedial Action to the extent that the total Remedial Costs exceed \$130.5 million, and (2) to reimburse the United States and the Commonwealth for any Remedial Costs over and above the first \$130.5 million in Remedial Costs."

16. The consent decree with AVX was approved by the District Court on February 3, 1992, and the Court entered final judgment against AVX on March 6, 1992. On May 1, 1992, NWF filed a notice of appeal of the AVX judgment to the United States Court of Appeals for the First Circuit.

17. In January 1992, EPA issued its Proposed Plan for the Estuary and lower Harbor/Bay portion of the site (the "PRAP"). Under the PRAP's "preferred alternative," EPA would dredge sediment in the Estuary and the lower Harbor/Bay contaminated with PCBs at concentrations exceeding 50 parts per million. Dredged sediments would be disposed of in shoreline confined disposal facilities that would be constructed as part of the remedial action. The PRAP also states that EPA, in coordination with the Federal and State Natural Resource Trustees, is conducting a Supplemental Feasibility Study on additional areas of concern in the Bay portion of the site. After this work is completed, EPA will issue an addendum to the PRAP. The estimated cost of the proposed alternative in the

January 1992 PRAP is \$33 million. The public will have an opportunity to submit written comments on the preferred alternative, the supplemental FS, and the addendum PRAP, as well as on eight other alternatives summarized in the PRAP, and a public information meeting and public hearing will be held.

Agreement

18. In view of EPA's issuance of the January 1992 PRAP and the circumstances of this case, and in light of plaintiffs' position as set forth in §§ 19-22 below, NWF hereby agrees to dismiss with prejudice its pending appeal in the First Circuit with respect to the AVX consent decree, and hereby waives any right to seek further judicial review of the Court of Appeals' decision dismissing NWF's appeal with respect to the Aerovox/Bellefonte decree. NWF may, consistent with this Court's 1989 order granting its intervention, raise legal objections to any consent decree subsequently presented to the Court, but it waives any right to appeal from approval of any such consent decrees in this case. NWF is waiving its right to seek further review of the Court of Appeals' decision dismissing its appeal with respect to the Aerovox/Bellefonte decree because this agreement makes any review of that decision moot. NWF does not waive any right to raise any claim in any other case that is either now pending or that may be filed in the future.

19. Plaintiffs will invite a member of NWF to hold the position of ex-officio, non-voting member of the Trustee Council created pursuant to Section VII of the Memorandum of Agreement Concerning Natural Resource Damages in the Matter of *United States, et al., v. AVX Corporation, et al.*, Civil Action No. 83-3882-Y (D. Mass.). That Council serves as the planning and implementation group for the restoration activities the Governments will undertake with respect to the natural resources of the New Bedford Harbor Environment, using the monies recovered in any settlements in this action.

20. Without waiving their respective positions on the law, the United States, the Commonwealth, and NWF (collectively "the parties") agree that it is generally preferable for a government not to settle natural resource damages claims until it has a reasonable estimate of the damages recoverable for the natural resource injuries known to have occurred at a site, including, as appropriate, the funds that will be needed to restore, replace, or acquire the equivalent of the injured natural resources. If such an estimate is

available, the government may assess whether a particular settlement agreement, or combination of agreements, will provide for appropriate actions necessary to protect and restore the natural resources that have been injured.

21. The parties agree that there may be circumstances in which it is neither feasible nor required for the United States or the Commonwealth to postpone settlement until it has a reasonable estimate of natural resource damages. The parties do not necessarily agree on precisely what circumstances would justify a settlement of natural resource damage claims before the government has a reasonable estimate of the recoverable damages. Plaintiffs believe that such circumstances include, for example, cases where a court refuses to postpone a trial until a damages assessment has been completed, where a responsible party's ability to pay is limited such that it is a dominant consideration in settlement negotiations, where the cost of a damages assessment would be disproportionate to the expected damages, or where the litigation risks on liability against an allegedly responsible party are serious. Unless these or other justifying circumstances are present, plaintiffs believe that it is appropriate to refrain from releasing responsible parties for natural resource damage claims until the government has a reasonable estimate of damages.

22. The United States will publish this agreement in the **Federal Register**.

Roger Clegg,

*Acting Assistant Attorney General
Environment & Natural Resources Division.*
[FR Doc. 92-17650 Filed 7-24-92; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Controlled Substances: Establishment of the 1992 Aggregate Production Quota for Methcathinone

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of an Established 1992 Aggregate Production Quota.

SUMMARY: This notice establishes the 1992 aggregate production quota for Methcathinone, a Schedule I controlled substance.

DATES: This order is effective on July 27, 1992.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration,

Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA, pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

On March 28, 1992, a notice proposing to establish a 1992 aggregate production quota for methcathinone was published in the *Federal Register* (57 FR 22490). All interested persons were invited to comment on or object to the proposal on, or before, June 29, 1992. No comments or objections were received.

This is not a major rule for purposes of Executive Order (E.O.) 12291. Pursuant to Sections 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this rule has been submitted for review by the Office of Management and Budget (OMB). The Administrator certifies that this rule meets the applicable standards set forth in sections 2(a) and 2(b)(2) of E.O. 12778. Rules establishing aggregate production quotas for controlled substances in Schedules I and II are required by statute and are essential to a criminal law enforcement function of the United States. Without the periodic establishment and adjustment of aggregate production quotas, pharmaceutical manufacturers in the United States could not lawfully produce a wide variety of medically necessary pharmaceutical drugs. Accordingly, such rules are not subject to the moratorium on regulations ordered by the President in his memorandum of January 28, 1992, as amended.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612 and it has been determined that this matter raises no Federalism implications which would warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment and revision of annual production quotas for Schedules I and II controlled substances is mandated by law and by the international obligations of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA of 1970 (21 U.S.C. 826) and delegated to the Administrator of the DEA by § 0.100 of title 28 of the Code of Federal Regulations, the Administrator of the DEA, hereby, orders that the 1992 aggregate production quota for methcathinone, expressed in grams of anhydrous base, be established as follows:

| Basic class | 1992 aggregate production quota (grams) |
|-----------------------------------|---|
| Schedule I: Methcathinone..... | 2 |

Dated: July 20, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-17636 Filed 7-24-92; 8:45 am]

BILLING CODE 4410-09-M

Controlled Substances: Establishment of the 1992 Aggregate Production Quota for Normorphine

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of an established 1992 aggregate production quota.

SUMMARY: This notice establishes the 1992 aggregate production quota for Normorphine, a Schedule I controlled substance.

DATES: This order is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA, pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

On March 27, 1992, a notice proposing to establish a 1992 aggregate production quota for normorphine was published in the *Federal Register* (57 FR 10678). All interested persons were invited to comment on or object to the proposal on, or before, April 27, 1992. No comments or objections were received.

This is not a major rule for purposes of Executive Order (E.O.) 12291. Pursuant to sections 3(c)(3) and

3(e)(2)(C) of Executive Order 12291, this rule has been submitted for review by the Office of Management and Budget (OMB). The Administrator certifies that this rule meets the applicable standards set forth in sections 2(a) and 2(b)(2) of Executive Order 12778. Rules establishing aggregate production quotas for controlled substances in Schedules I and II are required by statute, fulfill United States obligations under the Single Convention on Narcotic Drugs, 1961, and other international treaties, and are essential to a criminal law enforcement function of the United States. Without the periodic establishment and adjustment of aggregate production quotas, pharmaceutical manufacturers in the United States could not lawfully produce a wide variety of medically necessary pharmaceutical drugs. Accordingly, such rules are not subject of the moratorium on regulations ordered by the President in his memorandum of January 28, 1992.

This action has been analyzed in accordance with the Principles and criteria contained in Executive Order 12612 and it has been determined that this matter raises no Federalism implications which would warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment and revision of annual production quotas for Schedules I and II controlled substances is mandated by law and by the international obligations of the United States. Such quotas impact predominately upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by section 306 of the CSA of 1970 (21 U.S.C. 826) and delegated to the Administrator of the DEA by § 0.100 of title 28 of the Code of Federal Regulations, the Administrator of the DEA, hereby, orders that the 1992 aggregated production quota for normorphine, expressed in grams of anhydrous base, be established as follows:

| Basic class | 1992 Aggregate production quota (grams) |
|---------------------------------|---|
| Schedule I: Normorphine..... | 2 |

Dated: May 29, 1992.
 Robert C. Bonner,
 Administrator of Drug Enforcement.
 [FR Doc. 92-17600 Filed 7-24-92; 8:45 am]
 BILLING CODE 4410-09-M

Controlled Substances; Proposed Revised 1992 Aggregate Production Quotas

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed revised 1992 aggregate production quotas.

SUMMARY: This notice proposes revised 1992 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA). Since the establishment of the 1992 aggregate production quotas on November 29, 1991 (56 FR 61052), the DEA has reviewed data submitted by the registered manufacturers concerning 1991 dispositions and year-end inventories and has determined that revisions of some of the previously established quotas are necessary.

DATES: Comments or objections should be received on or before August 26, 1992.

ADDRESSES: Send comments or objections to the Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202)307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

On November 29, 1991, a notice of the 1992 established aggregate production quotas was published in the *Federal Register* (56 FR 61052). The notice stipulated that the Administrator of the DEA would adjust the quotas in early 1992 as provided for in title 21, Code of Federal Regulations, § 1303.23(c). These aggregate production quotas represent those amounts of controlled substances that may be produced in the United States in 1992 and do not include amounts which may be imported for use in industrial processes.

Based on a review of 1991 year-end inventories, 1991 disposition data

estimates of the medical needs of the United States submitted to the DEA by the Food and Drug Administration and other information available to the DEA, the Administrator of the DEA, under the authority vested in the Attorney General by section 306 of the CSA of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of title 28 of the Code of Federal Regulations, hereby proposes the following changes in the 1992 aggregate production quotas for the listed controlled substances, expressed in grams of anhydrous acid or base.

| | Previously established 1992 aggregate production quota | Proposed revised 1992 aggregate production quota |
|---|--|--|
| Schedule I: | | |
| 2,5 - | | |
| Dimethoxyamphetamine..... | 13,500,000 | 13,600,000 |
| Schedule II: | | |
| Alfentanil..... | 6,300 | 7,400 |
| Amobarbital..... | 358,000 | 108,000 |
| Amphetamine..... | 285,000 | 469,000 |
| Cocaine..... | 669,000 | 356,000 |
| Codeine (for sale)..... | 63,726,000 | 61,171,000 |
| Codeine (for conversion)..... | 6,477,000 | 6,948,000 |
| Desoxyephedrine..... | 1,068,000 | 1,065,000 |
| Levodroxyphe-drine..... | 1,043,000 | 1,042,000 |
| Methamphetamine..... | 25,000 | 23,000 |
| Dextropropoxy-phene..... | 89,065,000 | 91,658,000 |
| Dihydrocodeine..... | 589,000 | 375,000 |
| Diphenoxylate..... | 695,000 | 731,000 |
| Hydrocodone..... | 3,891,000 | 4,825,000 |
| Hydromorphone..... | 222,000 | 253,000 |
| Levorphanol..... | 10,000 | 6,800 |
| Meperidine..... | 8,533,000 | 8,714,000 |
| Methadone..... | 2,181,000 | 2,264,000 |
| Intermediate(4-cyano-2-dimethylamino-4,4-diphenylbutane)..... | 2,726,000 | 2,830,000 |
| Methylphenidate..... | 2,147,000 | 3,411,000 |
| Morphine (for sale)..... | 4,937,000 | 5,991,000 |
| Morphine (for conversion)..... | 74,753,000 | 75,353,000 |
| Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)..... | 1,034,000 | 982,000 |
| Oxycodone (for sale)..... | 2,757,000 | 3,128,000 |
| Oxycodone (for conversion)..... | 6,300 | 241,300 |
| Pentobarbital..... | 15,178,000 | 15,019,000 |
| Phenylacetone..... | 956,000 | 1,876,000 |
| Secobarbital..... | 650,000 | 471,000 |
| Sufentanil..... | 450 | 610 |

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the

proposal relating to any of the above mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by notice in the *Federal Register*, summarizing the issues to be heard and setting the time for the hearing.

This is not a major rule for purposes of Executive Order (E.O.) 12291. Pursuant to sections 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this rule has been submitted for review by the Office of Management and Budget (OMB). The Administrator certifies that this rule meets the applicable standards set forth in sections 2(a) and 2(b)(2) of Executive Order 12778. Rules establishing aggregate production quotas for controlled substances in Schedules I and II are required by statute, fulfill United States obligations under the Single Convention on Narcotic Drugs, 1961, and other international treaties, and are essential to a criminal law enforcement function of the United States. Without the periodic establishment and adjustment of aggregate production quotas, pharmaceutical manufacturers in the United States could not lawfully produce a wide variety of medically necessary pharmaceutical drugs. Accordingly, such rules are not subject to the moratorium on regulations ordered by the President in his memorandum of January 28, 1992.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612 and it has been determined that this matter raises no Federalism implications which would warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment and revision of annual production quotas for Schedules I and II controlled substances is mandated by law and by the international obligations of the United States. Such quotas impact predominately upon major manufacturers of the affected controlled substances.

Dated: May 29, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-17599 Filed 7-24-92; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Panel Meeting; Museum Advisory

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Utilization of Museum Resources Panel A: Presentation and Education Section) to the National Council on the Arts will be held on August 11-13, 1992 from 9:15 a.m.-5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 11 from 9:15 a.m.-10 a.m. The topics will be introductory remarks and general discussion.

The remaining portions of this meeting on August 11 from 10 a.m.-5:30 p.m. and August 12-13 from 9:15 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of the section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussion at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/683-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-17652 Filed 7-24-92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Privacy Act of 1974: New System of Records

AGENCY: National Science Foundation.

ACTION: Notice of new system of records and routine uses.

New System of Records

This provides notice of the existence and character of a proposed new system of records, NSF-53, designated "Public Transportation Subsidy Program". This system will be established and maintained by the NSF, enabling it to collect and use information relating to its employees who are eligible to participate in the subsidy program. The information will be solicited in accordance with the Privacy Act of 1974 and will be used to facilitate implementation of an experimental Metro subsidy program.

EFFECTIVE DATE: The new system of records and its routine uses will become effective 30 days after publication of this notice (August 26, 1992), unless comments are received on or before that date that would result in a contrary determination. In this case a notice will be published to that effect.

COMMENTS: Comments should be addressed to the NSF Privacy Act Officer, Office of Information and Resource Management, National Science Foundation, room 208, 1800 G Street, NW., Washington DC 20550. Written comments will be available for public inspection in Room 208, at the above address between the hours of 9 a.m. and 4 p.m.

NSF-53

SYSTEM NAME:

Public Transportation Subsidy Program.

SYSTEM LOCATION:

National Science Foundation, Office of Information and Resource Management, Division of Administrative Services, 1800 G Street, NW., Washington, DC 20550.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Science Foundation full-time permanent employees, grades GS-10 and below, who participate in the program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, social security numbers, issue dates, and subsidy preference information—METRO passes or tokens.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This information may be released to other Federal agencies for use in evaluating the overall effectiveness of public transportation programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Records are maintained manually and in a computer system at NSF.

RETRIEVABILITY:

Records are retrieved alphabetically by last name or by social security number.

SAFEGUARDS:

NSF employs a security guard and the building is locked during non-business hours when the guard is not on duty. Rooms in which records are kept are locked during non-business hours. Passwords are needed to access information in computer system.

RETENTION AND DISPOSAL:

Profiles used to determine eligibility will be deleted from the system when employee retires, leaves the Foundation, or is no longer eligible for the program.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Administrative Services, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

NOTIFICATION PROCEDURES:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" above.

RECORD SOURCE CATEGORIES:

Information is gathered from the individual and from the NSF Personnel Data Base and verified by eligible employee Identification Card.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: July 21, 1992.

Herman G. Fleming,

NSF Privacy Act Officer.

[FR Doc. 92-17615 Filed 7-24-92; 8:45 am]

BILLING CODE 7555-01

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-08681-MLA; ASLBP No. 92-666-01-MLA]

UMETCO Minerals Corp.; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the *Federal Register*, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the presiding officer to conduct the hearing in the event that an informal adjudicatory hearing is ordered in the following Materials Licensing proceeding.

In the Matter of UMETCO Minerals Corp., P.O. Box 1029, Grand Junction, Colorado 81502, Source Materials License No. SUA-1358.

The Presiding Officer is being designated pursuant to 10 CFR 2.1207 of the Commission's Regulations, "Informal Hearing Procedures for Materials Licensing Adjudications," published in the *Federal Register*, 54 FR 8269 (1989). This action is in response to requests for a hearing submitted by the State of Utah. The State of Utah desires a hearing on Amendment No. 30 to Source Materials License No. SUA-1358 issued to UMETCO on June 1, 1992.

The presiding officer in this proceeding is Administrative Judge James P. Gleason.

Following consultation with the Panel Chairman, pursuant to the provisions of 10 CFR 2.722, the Presiding Officer has appointed Administrative Judge Thomas D. Murphy to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Gleason and Judge Murphy in accordance with 10 CFR 2.701. Their addresses are:

Administrative Judge James P. Gleason,
Presiding Officer, Atomic Safety and

Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Administrative Judge Thomas D. Murphy, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 20th day of July 1992.

B. Paul Colter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 92-17667 Filed 7-24-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT**Request for Clearance of Form RI 25-41**

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of a revised information collection. The RI 25-41 form, Initial Certification of Full-time School Attendance, is used to pay a survivor annuity to children who are 18 years of age or older. OPM must determine that the child is unmarried and a full-time student in a recognized school.

Approximately 1200 RI 25-41 forms will be completed per year. The form requires 90 minutes to complete. The annual burden is 1800 hours.

For copies of this proposal, contact C. Ronald Truworthy on (703) 908-8550.

DATES: Comments on this proposal should be received on or before August 26, 1992.

ADDRESSES: Send or deliver comments to—

Lorraine Dettman, Chief, Operations Support Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING**ADMINISTRATIVE COORDINATION—**

CONTACT: Mary Beth Smith-Toomey, Chief, Administrative Management Branch, (202) 606-0623.

U.S. Office of Personnel Management.

Douglas A. Brook,

Acting Director.

[FR Doc. 92-17572 Filed 7-24-92; 8:45 am]

BILLING CODE 6325-01-M

Request of a Revised Information Collection for Expedited Clearance of Standard Form 2809

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for an expedited clearance of a revised information collection. Standard Form 2809, Health Benefits Registration, is used by individuals who are eligible to enroll or change their enrollment status under the Federal Employees Health Benefits Program (FEHBP). The form has been revised to collect additional demographic information on individuals covered under FEHBP. This form must be available for the 1992 Federal Employees Health Benefit Open Season.

Approximately 12,000 Standard Forms 2809 will be completed per year. The form requires approximately 45 minutes to complete. The annual burden is 9,000 hours.

A draft copy of this proposal is appended to this notice.

DATES: Comments on this proposal should be received on or before August 1, 1992. OMB will act upon this clearance by August 4, 1992.

ADDRESSES: Send or deliver comments to—

Robert A. Yuran, Deputy Assistant Director, Office of Financial Control and Management, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4312, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING**ADMINISTRATIVE COORDINATION—**

CONTACT: Mary Beth Toomey, Chief, Administrative Management Branch, (202) 606-0623

U.S. Office of Personnel Management.

Douglas A. Brook,

Acting Director.

Federal Employees Health Benefits Program
Standard Form 2809 Revised June 1992

Form Approved: OMB No. 3206-0160

Health Benefits Registration Form

Uses for Standard Form (SF) 2809

Use this form to:

- Enroll in the FEHB Program; or
- Elect not to enroll in the FEHB Program (employees only); or
- Change your FEHB enrollment from Self Only to Self and Family and/or from your present plan or option to another plan or option because of an event described in the Table on page 6; or
- Change your FEHB enrollment from Self and Family to Self Only; or
- Cancel your FEHB enrollment.

Who May Use SF 2809

1. Employees eligible to enroll in or currently enrolled in the FEHB Program, including temporary employees eligible under 5 U.S.C. 8906a.

2. Annuitants (other than CSRS/FERS annuitants) eligible to enroll in or currently enrolled in the FEHB Program, including individuals receiving monthly compensation from the Office of Workers' Compensation Programs.

Note: CSRS/FERS annuitants—Do not use this form. To obtain the appropriate form, write to: Office of Personnel Management, Insurance Services Branch, P.O. Box 14172, Washington, D.C. 20044.

3. Former spouses eligible to enroll in or currently enrolled in the FEHB Program under the Spouse Equity law or similar statutes.

4. Individuals eligible for temporary continuation of coverage under the FEHB Program, including:

- Former employees (who separated from service);
- Children who lose FEHB coverage; and
- Former spouses who are not eligible for FEHB under item 3 above.

Note: Former spouses and children of CSRS/FERS annuitants—Do not use this form. To obtain the appropriate form, write to address shown in item 2 above.

Instructions for Completing SF 2809

Type or Print Firmly

Part A. You must complete this part.

Item 1. Give your last name, first name and middle initial.

Item 2. Enter your Social Security Number. (See Privacy Act Statement on Page 5.)

Item 3. Give your date of birth, using numbers to show the month, day and year.

Item 4. Enter your permanent home mailing address.

Item 5. Place an "X" in the appropriate box.

Item 6. Place an "X" in the box that signifies your current marital status (if you are separated but not divorced, you are still married).

Item 7. Give your telephone number where you can be reached during normal business hours. Be sure to include the area code.

Part B. Complete this part to enroll or change your enrollment in the FEHB Program. (If you are changing your enrollment, also complete PART C.)

Item 1. Enter the plan name and appropriate enrollment code from the front cover of the brochure of the plan you want to enroll in or change to. (The enrollment code

shows the plan and option you are electing and whether you are enrolling for Self Only or Self and Family.) If you are just changing from one option to another and/or from Self Only to Self and Family or from Self and Family to Self Only, enter the name of your present plan and the new enrollment code.

If the plan you want is a prepaid plan (CMP/HMO), be sure you live in the plan's enrollment area. If it is an employee organization plan, be sure you are eligible to enroll in the plan; you must be or become a member of the plan's sponsoring organization.

Your signature in Part F authorizes deductions from your salary, annuity or compensation to cover your cost of the enrollment you elect in this item, unless you are required to make direct payments to the employing office.

Items 2a through 2f.

Complete these items only if your enrollment is for Self and Family. (If you need extra space for additional family members, list them on a separate sheet and attach.)

Item 2a. Indicate the first name and middle initial of each covered family member.

Item 2b. Provide the ZIP code if it is different from the enrollee's ZIP code in Part A, item 4.

Item 2c. Give your dependent's date of birth, using numbers to show the month, day and year. (e.g., 06/30/91)

Item 2d. Indicate M for male or F for female.

Item 2e. Provide the code which indicates the relationship of the eligible family member to you.

1. Spouse
2. Unmarried dependent child under age 22 (including an adopted child)
3. Step child, foster child or recognized child
4. Unmarried disabled child over age 22 incapable of self support.

Item 2f. Enter your dependents' Social Security Number. (See Privacy Act Statement on Page 5.)

Family Members Eligible for Coverage

• Unless you are a former spouse, family members eligible for coverage under your Self and Family enrollment include your spouse and your unmarried dependent children under age 22. Eligible children include your legitimate or adopted children; and recognized children born out of wedlock, stepchildren or foster children, if they live with you in a regular parent-child relationship. A recognized child born out of wedlock also may be included if a judicial determination of support has been obtained or you show that you provide regular and substantial support for the child.

Other relatives, e.g., your parents are not eligible for coverage even though they live with you and are dependent upon you.

• If you are a former spouse, family members eligible for coverage under your Self and Family enrollment are the unmarried dependent natural or adopted children under age 22 of both you and your former spouse.

• Children whose marriage ends before they reach age 22 become eligible for coverage under your Self and Family enrollment from the date the marriage ends until they reach age 22.

• In some cases, an unmarried disabled child who is 22 years old or older is eligible for coverage under your Self and Family enrollment if you have adequate medical certification of a mental or physical handicap that existed before his or her 22nd birthday and renders the child incapable of self-support.

Note: Your employing office (see Note under General Information on page 3) can give you additional details about family member eligibility, including the documentation required for coverage of a disabled child age 22 or older.

Item 3a. Place an "X" in the appropriate box if you completed item 1 of this part. If you answer "Yes," complete items 3a through 3b.

Item 3b. Indicate an additional insurance coverage for you or your dependents. If you or your dependents have Medicare, indicate which part(s).

Part C. You must complete this part if you are changing your enrollment.

Item 1. Enter the name of the plan in which you are presently enrolled.

Item 2. Enter your present enrollment code.

Item 3. Enter the number of the event that permits your change from the Table on page 6. (Leave this item blank if you are changing from Self and Family to Self Only.)

Item 4. Using numbers, enter the date of the event that permits your change. For Open Season changes, enter the date on which the Open Season begins. (Leave this item blank if you are changing from Self and Family to Self Only.)

Part D. Place an "X" in the box provided only if you are an employee who does not wish to enroll in the FEHB Program. (Be sure to read the Information about electing not to enroll on page 4.)

Part E. Place an "X" in the box provided if your wish to cancel your FEHB enrollment. Also enter your present enrollment code in the space provided. (Be sure to read the Information about canceling your enrollment on page 4.)

Part F. You must complete this part.

Item 1. Sign your name. Do not print.

Item 2. Enter the date you sign, using numbers to show the month, day and year.

Leave Part G and Remarks section blank. They are for agency use only.

If You are Registering for Someone Else

If you are registering for an employee or an annuitant, under a written authorization from him or her to do so, sign your name in Part F and attach the written authorization.

If you are registering for a former spouse eligible for coverage under Spouse Equity or for an individual eligible for temporary continuation of coverage as his or her court-appointed guardian, sign your name in Part F and attach evidence of your court-appointed guardianship.

General Information

The following material about the FEHB Program will be furnished to you by, or may be obtained from, your employing office (see Note below):

FEHB plan brochures, which contain detailed information about plan benefits and the contractual description of coverage.

Employees

FEHB Program information for Federal Civilian Employees and U.S. Postal Service Employees (SF 2809-A), which explains your rights and obligations under the Program.

FEHB Enrollment Information Guide and Plan Comparison Chart, which contains enrollment, plan and rate information, as follows:

- RI 70-1 Federal Employees (Non-Postal)
- RI 70-2 Postal Employees
- RI 70-7 Employees in Positions Outside the Continental U.S. (including Alaska, Hawaii, Guam and Puerto Rico)
- RI 70-8 Temporary Employees Eligible for FEHB Under 5 U.S.C. 8906a
- RI 70-10 Visually Impaired Employees

Annuitants

FEHB Enrollment Information Guide and Plan Comparison Chart, which contains enrollment, plan and rate information for:

- Annuitants in retirement systems other than CSRS/FERS (RI 70-4)
- Individuals receiving compensation from the Office of Workers' Compensation Programs (RI 70-6)

Former Spouses (Spouse Equity)

FEHB Enrollment Information Guide and Plan Comparison Chart, which contains enrollment, plan and rate information for former spouses (RI 70-5)

Individuals Eligible for Temporary Continuation of Coverage

FEHB Enrollment Information Guide and Plan Comparison Chart, which contains enrollment, plan and rate information for former employees, children and former spouses eligible for temporary continuation of coverage (RI 70-5)

Note: "Employing office" means the office of an agency or retirement system that is responsible for health benefits actions for an employee, an annuitant, a former spouse eligible for coverage under Spouse Equity or an individual eligible for temporary continuation of coverage.

Dual Enrollment

Normally, you are eligible to enroll if you are covered as a family member under someone else's enrollment in the FEHB Program. However, such dual enrollments may be permitted under certain circumstances in order to:

- Protect the interests of children who otherwise would lose coverage as family members, or
- Enable an employee who is under age 22 and covered under a parent's enrollment and becomes the parent of a child to enroll for Self and Family coverage.
- No person (enrollee or family member) is entitled to receive benefits under more than one enrollment in the Program. (Each enrollee must notify his or her plan of the names of the persons to be covered under his or her enrollment who are not covered under the other enrollment.)

Temporary Continuation of Coverage (TCC)

While the employing office notifies a former employee of his or her eligibility for temporary continuation of coverage, the employing office must be notified when a child or former spouse becomes eligible.

- For the eligible child of an enrollee, the enrollee must notify the employing office within 60 days after the qualifying event occurs, e.g., child reaches age 22.

- For the eligible former spouse of an enrollee, the enrollee or the former spouse must notify the employing office within 60 days after the former spouse's change in status, e.g., the date of the divorce or former spouse's remarriage before reaching age 55.

An individual eligible for temporary continuation of coverage who wants to continue FEHB coverage may choose any plan (for which he or she is eligible), option and type of enrollment. The time limits for former employee, child or former spouse to file the SF 2809 with the employing office appear in Events No. 24, 25 and 26 in the Table on page 6.

Note: If someone other than the enrollee notifies the employing office of his child's eligibility for temporary continuation of coverage within the specified time period, the child's opportunity to file the SF 2809 ends 60 days after the qualifying event. If someone other than the enrollee or the former spouse notifies the employing office of the former spouse's eligibility for continued coverage within the specified time period, the former spouse's opportunity to file the SF 2809 ends 60 days after the change in status.

Effective Dates

Your employing office can give you the specific date on which your enrollment or enrollment change will take effect. Additional information about effective dates appears in the Table on page 6.

Note 1: If you are changing your enrollment from Self and Family to Self Only so that your spouse can enroll for Self Only, you should coordinate the effective date of your spouse's enrollment with the effective date of your enrollment change to avoid a gap in your spouse's coverage.

Note 2: If you are cancelling your enrollment and intend to be covered under someone else's enrollment at the time you cancel, you should coordinate the effective date of your cancellation with the effective date of your new coverage to avoid a gap in your coverage.

Cancellation of Enrollment

You may cancel your enrollment at any time. However, if you cancel, neither you nor any family member covered by your enrollment will be entitled to a 31-day extension of coverage for conversion to nongroup coverage. Moreover, family members who lose coverage because of your cancellation will not be eligible for temporary continuation of coverage. (Be sure to read the additional information below about cancelling your enrollment.)

Employees Who Elect Not to Enroll or Who Cancel Their Enrollment

To be eligible for an FEHB enrollment after you retire, you must retire:

- Under a retirement system for Federal civilian employees, and
- On an immediate annuity.

In addition, you must be currently enrolled in a plan under the FEHB Program and must have been enrolled (or covered as a family member) in a plan under the Program for:

- The five years of service immediately before retirement (i.e., commencing date of annuity entitlement), or

- If fewer than five years, all service since your first opportunity to enroll. (Generally, your first opportunity to enroll is within 31 days after your first appointment [in your Federal career] to a position under which you are eligible to enroll under conditions that permit a Government contribution toward the enrollment.)

If you do not enroll at your first opportunity or if you cancel your enrollment, you may later enroll or reenroll only under the circumstances explained in the Table on page 6. Some employees delay their enrollment or reenrollment until time to qualify for FEHB coverage as a retiree; however, there is always the risk that they will have to retire earlier than expected (e.g., due to disability or involuntary separation) and not be able to meet the five-year requirement for continuing FEHB coverage into retirement. Please understand that when you elect not to enroll or cancel your enrollment you are voluntarily accepting this risk. An alternative would be to enroll in or change to a lower cost plan so that you meet the requirements for continuation of your FEHB enrollment after retirement.

Note: Temporary employees eligible for FEHB under 5 U.S.C. 8906a—Your decision not to enroll or to cancel your enrollment will not affect your future eligibility to continue FEHB enrollment after retirement.

Annuitants Who Cancel Their Enrollment

You cannot reenroll as an annuitant unless you are continuously covered as a family member under another person's enrollment in the FEHB Program during the period between your cancellation and reenrollment. See the Table on page 6 for events that allow eligible annuitants to reenroll.

Former Spouses (Spouse Equity) Who Cancel Their Enrollment

If you cancel your enrollment in the FEHB Program, you cannot reenroll as a former spouse. However, if you stop the enrollment because you acquire other FEHB coverage, your right to FEHB coverage under spouse equity continues. You may reenroll as a former spouse when the other FEHB coverage ends.

If you cancel a family enrollment, the covered children may be eligible for continued coverage if the children are receiving a survivor annuity based on the service of the other parent, and the other parent had family coverage at the time of death. In this circumstance, you should contact the other parent's retirement system promptly to have the children enrolled as survivor annuitants. The children must enroll for FEHB coverage as survivor annuitants within 31 days after your cancellation.

Temporary Continuation of Coverage Enrollees Who Cancel Their Enrollment

If you cancel your TCC enrollment, you cannot reenroll. Your family members who lose coverage because of your cancellation cannot enroll for TCC in their own right nor can they convert to a nongroup policy. However, family members who are Federal

employees or annuitants may enroll in the FEHB Program when you cancel your coverage if they are eligible for FEHB coverage in their own right.

Note 1: If you become covered by a regular enrollment in the FEHB Program, either in your own right or under the enrollment of someone else, your TCC enrollment is suspended. You will need to send documentation of the new enrollment to the employing office maintaining your TCC enrollment so that they can stop the TCC enrollment. If your new FEHB coverage stops before the TCC enrollment would have expired, the TCC enrollment can be reinstated for the remainder of the original eligibility period (18 months for separated employees).

Note 2: Former spouses (spouse equity) and temporary continuation of coverage enrollees who fail to pay their premiums within specified time frames are considered to have voluntarily cancelled their enrollment.

Privacy Act Statement

The information you provide on this form is needed to document in your records file maintained by your employing office your enrollment in the Federal Employees Health Benefits Program under Chapter 89, title 5,

U.S. Code. This information will be shared with the health insurance carrier you select so that it may (1) identify your enrollment in the plan, (2) verify your and/or your family's eligibility for payment of a claim for health benefits services or supplies, and (3) coordinate payment of claims with other carriers with whom you might also make a claim for payment of benefits. This information may be disclosed to other Federal agencies or Congressional offices which may have a need to know it in connection with your application for a job, license, grant or other benefit. It may also be shared and is subject to verification, via paper, electronic media, or through the use of computer matching programs, with national state, local or other charitable or social security administrative agencies to determine and issue benefits under their programs. In addition, to the extent this information indicates possible violation of civil or criminal law, it may be shared and verified, as noted above, with an appropriate Federal, state, or local law enforcement agency. While the law does not require you to supply all the information requested on this form, doing so will assist in the prompt processing of your enrollment.

We also request that you provide your Social Security Number so that it may be used as your individual identifier in the Federal Employees Health Benefits Program. Executive Order 9397, dated November 22, 1943, allows Federal agencies to use the Social Security Number as an individual identifier to distinguish between people with the same or similar names.

Agencies other than the Office of Personnel Management may have further routine uses for disclosure of information from the records systems in which they file copies of this form. If this is the case, they should provide you with any such uses which are applicable at the time they ask you to complete this form.

Public Burden Statement

We think this form takes an average of 45 minutes to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing completion time, to the Office of Management and Budget, Paperwork Reduction Project, (3206-0160), Washington, D.C. 20503.

BILLING CODE 5325-01-M



HEALTH BENEFITS REGISTRATION FORM

Federal Employees Health Benefits Program

Form Approved:
OMB No. 3206-0160

• Complete Part A and Parts B, C, D, and E as applicable.

• Do not separate the copies. Your employing office will certify the completed form and return your copy to you.

• Type or Print Firmly.
• Sign and date in Part F.

PART A - Fill in this part.

| | | |
|---|---|---|
| 1. Name (Last, first, middle initial) | 2. Social Security number | 3. Date of birth (mo., day, yr.) / / |
| 4. Your home mailing address (include ZIP code) | 5. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female | 6. Are you now married? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7. Telephone number () | | |

PART B - Fill in this part if you wish to enroll or change your enrollment in the Federal Employees Health Benefits (FEHB) Program.

1. I elect to enroll in a health benefits plan as shown below. (Copy the information requested below from front cover of brochure of the plan you select.)

| | | | | |
|-----------------------------|-----------------|-----------------------------------|---------|-------------------------|
| Name of plan | Enrollment code | | | |
| 2a. Names of family members | 2b. ZIP code | 2c. Date of birth (mo., day, yr.) | 2d. Sex | 2e. Relationship "code" |
| | | / / | | |
| | | / / | | |
| | | / / | | |
| | | / / | | |
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| | | / / | | |
| | | / / | | |

3a. Do you, your spouse or any other eligible family members have any group health insurance coverage other than the FEHB plan in which you are now enrolling or enrolled? ☐ No ☐ Yes → Complete 3b

3b. Type of insurance ☐ Medicare ☐ No ☐ Yes → Indicate part below ☐ CHAMPUS ☐ Other private (specify name)

PART C - Fill in this part, as well as PART B, to change enrollment.

| | | | |
|----------------------|---------------------------------|---|--|
| 1. Present Plan name | 2. Present Plan enrollment code | 3. Number of event that permits change (See Table of Permissible Changes) | 4. Date of event that permits change (mo., day, yr.) |
| | | | / / |

PART D - Employees Only

Place an "X" in the box below if you wish NOT TO ENROLL in the FEHB Program.

☐ I elect not to enroll in the Federal Employees Health Benefits Program.

My signature in PART F certifies that I have read and understand the information regarding this election.

PART E - CANCELLATION

Place an "X" in the box below if you wish to CANCEL your enrollment.

☐ I elect to cancel my enrollment in the Federal Employees Health Benefits Program. I am currently enrolled under the code shown at the right.

My signature in PART F certifies that I have read the information in the instructions regarding cancellation of enrollment and that I understand that I must meet the 5-year requirement to qualify for FEHB coverage after retirement.

PART F - Fill in this part.

WARNING: Any intentionally false statement in this application or willful misrepresentation relative thereto is a violation of the law punishable by a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both. (18 U.S.C. 1001.)

| | |
|----------------------------------|---------|
| 1. Your signature (Do not print) | 2. Date |
| | |

PART G - To be completed by agency

| | | | |
|---|---|---|--------------------------|
| 1. Name and address of employing office | 2. Date received in employing office | 3. Effective date of action | 4. SF 2811 report number |
| | | | |
| | 5. Payroll office number | 6. Payroll contact and telephone number () | |
| | 7. Personnel contact and telephone number () | | |
| | 8. Signature of authorized agency official | 9. Phone number () | |

Remarks

TABLE OF PERMISSIBLE CHANGES IN ENROLLMENT
 Enrollment May Be Cancelled or Changed From Family to Self Only at Any Time

| No. | Events That Permit Enrollment Change | Change Permitted | | | Time Limit in Which Registration Form Electing Change Must Be Filed With Employing Office** |
|-----|--|-------------------------------|-----------------------------|------------------------------------|---|
| | | From Not Enrolled to Enrolled | From Self Only to Family | From One Plan or Option to Another | |
| 1 | Open Season. | Yes* † | Yes | Yes | As announced by the Office of Personnel Management. |
| 2 | Change in marital status. (Marriage, divorce, annulment, death of spouse.) | Yes* † | Yes (Except former spouses) | Yes (Except former spouses) | From 31 days before to 60 days after change in marital status. |
| 3 | Other change in family status. (For example, birth of a child, legal separation, discharge from military service of a spouse or of a child under age 22). | No | Yes | No | Within 60 days after change in family status. |
| 4 | Enrollee or family member moves from an area served by a prepaid plan (CMP/HMO) in which enrolled at time of move. | Does not apply | Yes | Yes | At any time after presenting written notice to the employing office of the move. |
| 5 | Termination of enrollment by employee organization plan because of termination of membership in organization. | Does not apply | No | Yes | Within 31 days after termination of enrollment in plan. |
| 6 | Employee, annuitant or former spouse (spouse equity), covered as a family member under another's FEHB enrollment, loses coverage other than by cancellation or change to Self Only of the covering enrollment; or employee, covered under another federally sponsored health benefits program, loses such coverage for any reason. | Yes* | Does not apply | Does not apply | Within 31 days after termination (except, for employees, within 60 days after the death of the enrollee). Coverage is effective the first day of the pay period that begins after the employing office receives the SF 2809. If election is made within the time limit, but after expiration of the 31-day extension of coverage (or too close to the expiration of the 31-day extension of coverage), there will be a break in coverage. |
| 7 | Employee, annuitant or former spouse (spouse equity), covered as a family member under another's FEHB enrollment, loses coverage because of change of the covering enrollment from Family to Self Only. | Yes, for Self Only* | Does not apply | Does not apply | Within 31 days after change of covering enrollment has been filed. Coverage is effective the first day of the pay period that begins after the employing office receives the SF 2809. If election is made within the time limit, but during a pay period following the one in which the change to Self Only was filed, there will be a break in coverage. |
| 8 | Employee transfers to overseas post of duty from the United States, or reverse. | Yes* | Yes | Yes | Within 31 days before or after move. |
| 9 | Employee returns to active civilian duty or annuitant separates from military service which was not limited to 30 days or less. | Yes* † | Yes | Yes | Within 31 days after return to active civilian duty or separation from military service. |
| 10 | Your plan stops participating in the FEHB Program. | Does not apply | Yes | Yes | As set by the Office of Personnel Management. |
| 11 | Self Only enrollment under this Program of employee's or annuitant's spouse terminates as a result of change in spouse's Federal employment status or 365 days' nonpay status. | No | Yes | No | Within 31 days after termination of spouse's enrollment. Coverage is effective the first day of the pay period that begins after the employing office receives the SF 2809. If election is made within the time limit, but after expiration of the 31-day extension of coverage (or too close to the expiration of the 31-day extension of coverage), there will be a break in coverage. |
| 12 | Employee who is not enrolled loses coverage under parent's non-Federal health plan. | Yes* | Does not apply | Does not apply | Within 31 days after loss of coverage, except within 60 days after the death of the parent. |
| 13 | Enrolled employee retires from overseas post of duty and is eligible to continue enrollment as annuitant. | Does not apply | Yes | Yes | Within 60 days after retirement. |
| 14 | Enrollee becomes eligible for Medicare. | Does not apply | No | Yes | At any time beginning 30 days before becoming eligible for Medicare. |
| 15 | Enrollee's eligible child (or children) loses coverage under another's FEHB enrollment. | No | Yes | No | Within 31 days after child's (children's) loss of coverage. Coverage is effective the first day of the pay period that begins after the employing office receives the SF 2809. If election is made within the time limit, but after expiration of the 31-day extension of coverage (or too close to the expiration of the 31-day extension of coverage), there will be a break in coverage. |

* Individuals must be otherwise eligible to enroll.
 † Employees only.

** Also selected effective date information.

| No. | Events That Permit Enrollment Change | Change Permitted | | | Time Limit In Which Registration Form Electing Change Must Be Filed With Employing Office** |
|-----|--|-------------------------------|---------------------------|------------------------------------|--|
| | | From Not Enrolled to Enrolled | From Self Only to Family | From One Plan or Option to Another | |
| 16 | Employee or an eligible family member loses coverage under Medicaid (State program of medical assistance for the needy). | Yes* employee loss | Yes family member loss | Does not apply | Within 31 days after termination of Medicaid or loss of Medicaid coverage by family member. |
| 17 | Employee, annuitant or former spouse (spouse equity), covered as a family member under another's FEHB enrollment, loses coverage due to cancellation of the covering enrollment. | Yes* | Does not apply | | You must enroll in the same plan and option as that from which coverage is lost; if eligible to enroll in that plan, within 31 days after cancellation of the covering enrollment. If not eligible to enroll in that plan, you may enroll in the same option of any available plan within the 31-day period. Coverage is effective the first day of the pay period that begins after the employing office receives the SF 2809. If election is made within the time limit, but during a pay period following the one in which the cancellation was filed, there will be a break in coverage. |
| 18 | Enrolled employee's employment status changes from full-time to part-time career employment as defined in the Federal Employees Part-Time Career Employment Act of 1978. | No | No | Yes | Within 31 days after the change in employment status. |
| 19 | Employee or employee's spouse loses coverage under spouse's non-Federal health plan when spouse terminates employment to accompany employee who accepts a position is directed out of commuting area. | Yes* | Yes | No | Within 31 days before or 180 days after move. |
| 20 | Employee's or annuitant's spouse involuntarily loses his or her non-Federal health insurance coverage, or coverage for his or her dependents; or employee's or annuitant's eligible child (or children) loses non-Federal coverage under the other parent's health plan because the other parent involuntarily loses coverage for his or her dependents. | Yes* † | Yes | No | Within 31 days before or after spouse's or dependent's loss of coverage; or within 31 days before or after child's (or children's) loss of coverage. |
| 21 | Former spouse who is eligible to enroll under the authority of the Civil Service Retirement Spouse Equity Act of 1984 (P.L. 98-615), as amended, the Intelligence Authorization Act of 1988 (P.L. 99-569), or the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (P.L. 100-204). | Yes* | Does not apply | Does not apply | Generally, within 60 days after divorce or within 60 days after the date of OPM's notice of eligibility to enroll. |
| 22 | Temporary employee completes one year of service in accordance with 5 U.S.C. 8906a. | Yes* | Does not apply | Does not apply | Within 31 days after becoming eligible. |
| 23 | Temporary employee, eligible under 5 U.S.C. 8906a, changes to a nontemporary appointment. | Yes* | Yes | Yes | Within 31 days after changing to non-temporary appointment. |
| 24 | Employee separated from service and eligible for temporary continuation of coverage. | Does not apply | Yes | Yes | Within 60 days after the later of: separation; or receiving notice of the opportunity to elect temporary continuation of coverage. Coverage is effective the day after other FEHB coverage ends, including the 31-day extension of coverage. If election is made after the end of the 31-day extension of coverage, the effective date will be retroactive. |
| 25 | Child of employee, former employee or annuitant stops meeting the requirements for unmarried dependent children. | Yes* | Does not apply | Does not apply | Within 60 days after the later of: the qualifying event; or the child's receiving notice of the opportunity to elect temporary continuation of coverage (based on the enrollee's notification to the employing office of the child's eligibility). Coverage is effective the day after other FEHB coverage ends, including the 31-day extension of coverage. If election is made after the end of the 31-day extension of coverage, the effective date will be retroactive. |

* Individuals must be otherwise eligible to enroll.

† Employees only.

** Also selected effective date information.

| No. | Events That Permit Enrollment Change | Change Permitted | | | Time Limit in Which Registration Form Electing Change Must Be Filed With Employing Office** |
|-----|--|-------------------------------|--------------------------|------------------------------------|--|
| | | From Not Enrolled to Enrolled | From Self Only to Family | From One Plan or Option to Another | |
| 26 | Former spouse meets the requirement in 5 U.S.C. 8901(10) of having been enrolled in an FEHB plan as a covered family member at some time during the 18 months before the marriage ended, but does not meet one or both of the other two requirements of 5 U.S.C. 8901(10). | Yes* | Does not apply | Does not apply | Within 60 days after the later of: the qualifying event; the date coverage under Subpart H of 5 CFR Part 890 was lost, if the loss occurred within 36 months of the qualifying event; or the former spouse's receiving notice of the opportunity to elect temporary continuation of coverage (based on the enrollee's or former spouse's notification to the employing office of the former spouse's eligibility). Coverage is effective the day after other FEHB coverage ends, including the 31-day extension of coverage; or the date of the qualifying event, if later. If election is made after the end of the 31-day extension of coverage or the date of the qualifying event, the effective date will be retroactive. |
| 27 | Former employee, former spouse or child whose temporary continuation of coverage under 5 CFR Part 890 Subpart K terminates due to other FEHB coverage, loses the other FEHB coverage. | Yes* | Does not apply | | You must reenroll in the same plan and option as that in which you were enrolled prior to obtaining the other FEHB coverage, if eligible to enroll in that plan, within 31 days after the other coverage ends, but not later than the expiration of the period of eligibility for the temporary continuation of coverage. If not eligible to enroll in that plan, you may enroll in the same option of any available plan within the 31-day time limit. |

* Individuals must be otherwise eligible to enroll.

† Employees only.

** Also selected effective date information.

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

July 21, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

- Equitable Companies, Inc.
Common Stock, \$.01 Par Value (File No. 7-8789)
- Greater China Fund, Inc.
Common Stock, \$.001 Par Value (File No. 7-8790)
- Jardine Fleming China Region Fund, Inc.
Common Stock, \$.01 Par Value (File No. 7-8791)
- Consolidated Freightways, Inc.
Depository Shares (each representing 1/10 share of Series C Conversion Preferred), No Par Value (File No. 7-8792)
- USF&G Corporation
\$.5 Series C Cumulative Convertible Redeemable Preferred Stock, No Par Value (File No. 7-8793)
- Daxor Corporation
Common Stock, \$.01 Par Value (File No. 7-8794)
- Abex, Inc.
Common Stock, \$.01 Par Value (File No. 7-8795)
- Managed Municipal Portfolio, Inc.
Common Stock, \$.001 Par Value (File No. 7-8796)
- MuniYield California Insured Fund, Inc.
Common Stock, \$.10 Par Value (File No. 7-8797)
- MuniYield New York Insured Fund II
Common Stock, \$.10 Par Value (File No. 7-8798)
- MuniYield Quality Fund, Inc.
Common Stock, \$.10 Par Value (File No. 7-8799)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 11, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the

extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-17592 Filed 7-24-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

July 21, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

- Authentic Fitness Corporation
Common Stock, \$.001 Par Value (File No. 7-8800)
- Ambac, Inc.
Common Stock, \$.01 Par Value (File No. 7-8801)
- Bradless, Inc.
Common Stock, \$.01 Par Value (File No. 7-8802)
- British Telecommunications Plc
Second Interim, American Depositary Shares (File No. 7-8803)
- Carter-Wallace, Inc.
Common Stock, \$1.00 Par Value (File No. 7-8804)
- Cone Mills Corporation
Common Stock, \$.10 Par Value (File No. 7-8805)
- Delta Air Lines, Inc.
Depository Shares, 7% Series Convertible Preferred (File No. 7-8806)
- Hospital Staffing Services, Inc.
Common Stock, \$.001 Par Value (File No. 7-8807)
- Interco, Inc.
Common Stock, No Par Value (File No. 7-8808)
- MBIA, Inc.
Common Stock, \$1.00 Par Value (File No. 7-8809)
- Transportacion Maritima Mexicana, S.A. De C.V.
American Depositary Shares, Representing Series L Shares (File No. 7-8810)
- Transportacion Maritima Mexicana, S.A. De C.V.
American Depositary Shares, Representing Ordinary Participation Certificates (representing financial interests in Series A Shares) (File No. 7-8811)
- Ultramar Corporation
Common Stock, \$.01 Par Value (File No. 7-8812)
- Equitable Companies Incorporated

Common Stock, \$.01 Par Value (File No. 7-8813)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 11, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-17591 Filed 7-4-92; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Champion International Corporation, Common Stock \$.50 Par Value; Rights to Purchase Preference Stock, Participating Cumulative Series, \$1 Par Value—Which Presently are Attached to the Common Stock; Preference, Stock, \$1.20 Cumulative Convertible Series, \$ Par Value—All of Which was Redeemed on April 14, 1986; Preference Stock, \$4.60 Cumulative Convertible, \$1 Par Value—All of Which was Redeemed on May 17, 1986) File No. 1-3053

July 21, 1992.

Champion International Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

According to the Company, it decided to withdraw the above-specified securities from listing on the PSE

because the Company believes that this cost-cutting action is appropriate in today's very competitive business environment.

In addition, all of these securities, except the Company's Common Stock, have been redeemed, and the Company's Common Stock remains listed on the New York Stock Exchange, Inc.

Any interested person may, on or before August 11, 1992, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 92-17590 Filed 7-24-92; 8:45 am]

BILLING CODE 8010-01-M

the Amex the Company considered the direct and indirect costs and expenses in connection with maintaining such listing, the number of record holders of the Debentures, the availability of a market maker and the limited trading record of the Debentures. The Company does not see any material advantage in continuing the trading of the Debentures on the Amex.

Any interested person may, on or before August 11, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 92-17593 Filed 7-24-92; 8:45 am]

BILLING CODE 8010-01-M

of a meeting of the Training and Qualifications Subcommittee to be held on August 6, 1992, at the FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591. The agenda for the meeting will include progress reports from the General Aviation Working Group, Air Carrier Working Group, and Cabin Safety Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading "FOR FURTHER INFORMATION CONTACT."

Because of increased security in Federal buildings, members of the public who wish to attend are advised to arrive in sufficient time to be cleared through building security.

Issued in Washington, DC, on July 21, 1992.

Tom Toula,

Acting Executive Director, Training and Qualifications Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-17664 Filed 7-24-92; 8:45 am]

BILLING CODE 4010-13-M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Data Switch Corporation, T-Bar Incorporated 9% Convertible Subordinated Debentures due 1996) File No. 1-9780

July 21, 1992.

Data Switch Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, there is currently only \$3,539,000 principal amount of Debentures outstanding as of this date of the original \$15,000,000 principal amount originally issues. Also, the Company states that there has been little trading activity in the Debentures, the last trade known to the Company being in November 1991.

Finally, in making the decision to withdraw the Debentures from listing on

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Training and Qualifications Subcommittee; Meeting

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Training and Qualifications Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on August 6, 1992, at 9 a.m.

ADDRESSES: The meeting will be held at the FAA Headquarters in the MacCracken Room, 10th Floor, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Etta Schelm, Flight Standards Service (AFS-200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given

Federal Highway Administration

Environmental Impact Statement: Clark County, IN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Clark County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Fendrick, District Administrator, Federal Highway Administration, room 254, Federal Office Building, 575 North Pennsylvania Street, Indianapolis, Indiana 46204, Tel. 317/226-7481.

SUPPLEMENTARY INFORMATION: The Indiana Department of Transportation (INDOT) is examining alternatives to upgrade about 8.7 miles of I-65 between the Ohio River and SR 311 at Sellersburg. This freeway section, dating from the early 1960's, is critically deficient in capacity and does not meet today's design policies and standards, especially at interchanges. This document analyzes solutions to these deficiencies, including no action, mass transit, and build alternatives. Build

alternatives include mainline I-65 reconstruction, revised interchange configurations, and changes to the local surface street network.

A scoping meeting held October 25, 1991 was attended by: FHWA; INDOT's Division of Program Development and Seymour District Office; and, the Indiana Department of Natural Resources divisions of Water, Outdoor Recreation, and Fish and Wildlife. Scoping packets were sent to those unable to attend the meeting; the U.S. Fish and Wildlife Service, Field Supervisor; U.S. Soil Conservation Service, State Conservationist; U.S. Department of Interior, National Park Service; U.S. Environmental Protection Agency, Region V, Environmental Review Section; U.S. Department of Housing and Urban Development, Region V; U.S. Army Corps of Engineers, Louisville District; INDOT, Division of Aeronautics; Indiana Geological Survey, Environmental Geology Section; Indiana Department of Environmental Management; and, Ball State University, Department of Anthropology, Archaeological Resources Management Service. No additional formal scoping is planned at this time.

Two committees aided the study process: A Study Task Force (STF) with representatives of local political jurisdictions and businesses; and a Technical Review Committee (TRC) with agency staff representation. These groups have provided a forum for both political and technical issues. Dozens of meetings have been held with these groups, agencies, business groups, and individuals. Public meetings were held January 17, 1991 and September 18, 1991, to explain the project and record public comments. A formal public hearing will be held. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalogue of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 123372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: July 14, 1992.

J.D. Tucker,
*Planning and Research Engineer,
Indianapolis, Indiana.*

[FR Doc. 92-17440 Filed 7-24-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—
No. 23-92]

Treasury Notes of July 31, 1994, Series AC-1994 (CUSIP No. 912827 G2 2)

Washington, July 22, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable

securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC, 20239-1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than \$5,000,000. A noncompetitive bid by a single bidder in excess of \$5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the

designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to Section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds \$2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded \$500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded \$500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are

accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is

pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Gerald Murphy,
Fiscal Assistant Secretary.

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note. A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the

trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census of statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219-3350).

Auction of 2-Year and 5-Year Notes Totalling \$25,500 Million

The Treasury will auction \$15,000 million of 2-year notes and \$10,500 million of 5-year notes to refund \$19,319 million of securities maturing June 30, 1992, and to raise about \$6,175 million new cash. The \$19,319 million of maturing securities are those held by the public, including \$977 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

The \$25,500 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold \$1,854 million of the maturing securities that may be refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Details about each of the new securities are given in the attached

highlights of the offerings and in the official offering circulars.

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC OF 2-YEAR AND 5-YEAR NOTES TO BE ISSUED JULY 31, 1992

[July 22, 1992]

| | | |
|--|---|---|
| Amount offered to the public..... | \$15,000 million..... | \$10,500 million..... |
| Description of Security: | | |
| Term and type of security..... | 2-year notes..... | 5-year notes..... |
| Series and CUSIP designation..... | Series AC-1994, (CUSIP No. 912827 G2 2)..... | Series P-1997, (CUSIP No. 912827 G3 0)..... |
| Maturity date..... | July 31, 1994..... | July 31, 1997..... |
| Interest rate..... | To be determined based on the average of accepted bids..... | To be determined based on the average of accepted bids..... |
| Investment yield..... | To be determined at auction..... | To be determined at auction..... |
| Premium or discount..... | To be determined after auction..... | To be determined after auction..... |
| Interest payment dates..... | January 31 and July 31..... | January 31 and July 31..... |
| Minimum denomination available..... | \$5,000..... | \$1,000..... |
| Terms of Sale: | | |
| Method of sale..... | Yield auction..... | Yield auction..... |
| Competitive tenders..... | Must be expressed as an annual yield, with two decimals, e.g., 7.10%..... | Must be expressed as an annual yield, with two decimals, e.g., 7.10%..... |
| Noncompetitive tenders..... | Accepted in full at the average price up to \$5,000,000..... | Accepted in full at the average price up to \$5,000,000..... |
| Accrued interest payable by investor..... | None..... | None..... |
| Key Dates: | | |
| Receipt of tenders..... | Tuesday, July 28, 1992..... | Wednesday, July 29, 1992..... |
| (a) noncompetitive..... | Prior to 12 noon, EDST..... | Prior to 12:00 noon, EDST..... |
| (b) competitive Settlement (final payment due from institutions):..... | Prior to 1:00 p.m., EDST..... | Prior to 1 p.m., EDST..... |
| (a) funds immediately available to the Treasury..... | Friday, July 31, 1992..... | Friday, July 31, 1992..... |
| (b) readily-collectible check..... | Wednesday, July 29, 1992..... | Wednesday, July 29, 1992..... |

[FR Doc. 92-17782 Filed 7-23-92; 12:01 pm]
BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 24-92]

Treasury Notes of July 31, 1997, Series P-1997 (CUSIP NO. 912827 G3 0)

Washington, July 22, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement

through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement.

Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than \$5,000,000. A noncompetitive bid by a single bidder in excess of \$5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account

in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to Section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and amount bid. A separate tender and customer list should be submitted for each competitive yield. For non-competitive bids, the customer list must provide, for each customer, the name of the customer and amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds \$2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the

security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received

would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded \$500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded \$500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau

of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7, must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn on the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of

holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Gerald Murphy,
Fiscal Assistant Secretary.

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest, in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b)

reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219-3350).

Auction of 2-Year and 5-Year Notes Totalling \$25,500 Million

The Treasury will auction \$15,000 million of 2-year notes and \$10,500 million of 5-year notes to refund \$19,319 million of securities maturing June 30, 1992, and to raise about \$6,175 million new cash. The \$19,319 million of maturing securities are those held by the public, including \$977 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

The \$25,500 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold \$1,854 million of the maturing securities that may be

refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC OF 2-YEAR AND 5-YEAR NOTES TO BE ISSUED JULY 31, 1992

[July 22, 1992]

| | | |
|---|---|---|
| Amount Offered to the Public | \$15,000 million | \$10,500 million |
| Description of Security: | | |
| Term and type of security | 2-year notes | 5-year notes |
| Series and CUSIP designation | Series AC-1994, (CUSIP No. 912827 G2 2) | Series P-1997, (CUSIP No. 912827 G3 0) |
| Maturity date | July 31, 1994 | July 31, 1997 |
| Interest rate | To be determined based on the average of accepted bids. | To be determined based on the average of accepted bids. |
| Investment yield | To be determined at auction | To be determined at auction |
| Premium or discount | To be determined after auction | To be determined after auction |
| Interest payment dates | January 31 and July 31 | January 31 and July 31 |
| Minimum denomination available | \$5,000 | \$1,000 |
| Terms of Sale: | | |
| Method of sale | Yield auction | Yield auction |
| Competitive tenders | Must be expressed as an annual yield, with two decimals, e.g., 7.10%. | Must be expressed as an annual yield, with two decimals, e.g., 7.10%. |
| Noncompetitive tenders | Accepted in full at the average price up to \$5,000,000 | Accepted in full at the average price up to \$5,000,000 |
| Accrued interest payable by investor | None | None |
| Key Dates: | | |
| Receipt of tenders | Tuesday, July 28, 1992 | Wednesday, July 29, 1992 |
| (a) noncompetitive | Prior to 12 noon, EDST | prior to 12 noon, EDST |
| (b) competitive | Prior to 1 p.m., EDST | prior to 1 p.m., EDST |
| Settlement (final payment due from institutions): | | |
| (a) funds immediately available to the Treasury | Friday, July 31, 1992 | Friday, July 31, 1992 |
| (b) readily-collectible check | Wednesday, July 29, 1992 | Wednesday, July 29, 1992 |

[FR Doc. 92-17761 Filed 7-23-92; 12:01 am]
BILLING CODE 4810-40-M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 21, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20222.

U.S. Customs Service

OMB Number: 1515-0050

Form Number: None

Type of Review: Extension

Title: Recordkeeping Requirements for Drawback Claims

Description: The Drawback Regulations provide specific procedures as to what type of records and forms are needed for compliance with the law. 19 CFR 191.22 and 191.32 detail the records which must be maintained for 3 years after payment of drawback

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Number of Recordkeepers: 3,500

Estimated Burden Hours Per

Recordkeeper: 7 hours

Frequency of Response: Other

Estimated Total Recordkeeping Burden: 24,500 hours

Clearance Officer: Ralph Meyer (202) 927-1552, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229

OMB Reviewer: Milo Sunderhauf (202) 396-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Department Reports Management Officer

[FR Doc. 92-17656 Filed 7-24-92; 8:45 am]

BILLING CODE 4820-02-M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 21, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance

Office listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New

Form Number: None

Type of Review: New Collection

Title: Focus Group Interviews

Concerning the Federal Tax Deposit Coupon Book Reorder Process

Description: These focus group interviews are necessary to determine the effectiveness of the new automated system to reissue Federal Tax Deposit (FTD) Coupon Books. The results will be used to evaluate clarity of instructions and to explore methods of improving the deposit system in an attempt to measure burden reduction

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents: 1,400

Estimated Burden Hours Per

Respondent: 3 hours

Frequency of Response: Other (one-time interviews)

Estimated Total Reporting Burden: 237 hours

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Department Reports Management Officer.

[FR Doc. 92-17657 Filed 7-24-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review.

Dated: July 17, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220

U.S. Customs Service

OMB Number: 1515-0090

Form Number: None

Type of Review: Extension

Title: Exporters Summary of Exportations

Description: Under the Exporters Summary Procedure the drawback entry shall be supported by a chronological summary of the exports and other required documentation to fully establish the fact of exportation. This permits consolidation of claims on a periodic basis and substantially reduces the paperwork involved

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents: 15,000

Estimated Burden Hours Per

Respondents: 3 hours

Frequency of Response: On occasion

Estimated Total Reporting Burden: hours

OMB Number: 1515-0106

Form Number: None

Type of Review: Reinstatement

Title: Special Form of Entry of Articles for Exhibition

Description: This form of entry is needed to provide a means by which U.S. Customs may control the entry of material for exhibits.

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents/Recordkeepers: 35

Estimated Burden Hours Per Respondent/Recordkeeper: 20 minutes

Frequency of Response: On occasion
Estimated Total Reporting Burden: 502 hours

Clearance Officer: Ralph Meyer (202) 566-9182, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92-17467 Filed 7-24-92; 8:45 am]

BILLING CODE 4820-02-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 21, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: 1992 Service Center

Correspondence Customer Satisfaction Survey.

Description: The data collected will be used to evaluate the level of satisfaction of taxpayers receiving IRS service center generated correspondence from Returns Processing and Collection functions to identify possible areas of program improvement.

Respondents: Individuals or households.

Estimated Number of respondents: 2,960.

Estimated Burden Hours Per Respondent: 16 minutes.

Frequency of Response: On occasion.
Estimated Total Reporting Burden: 765 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92-17658 Filed 7-24-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 21, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1010.

Form Number: IRS Form 1120-RIC.

Type of Review: Revision.

Title: U.S. Income Tax Return for Regulated Investment Companies.

Description: Form 1120-RIC is filed by a domestic corporation electing to be taxed as a RIC in order to report its income and deductions and to compute its tax liability. IRS uses Form 1120-RIC to determine whether the RIC has correctly reported its income, deductions, and tax liability.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents/Recordkeepers: 3,277.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—54 hours, 3 minutes

Learning about the law or the form—16 hours, 25 minutes

Preparing the form—32 hours, 55 minutes

Copying, assembling, and sending the form to the IRS—4 hours, 17 minutes

Frequency of Response: Annually.

*Estimated Total Reporting/**Recordkeeping Burden: 352,835 hours.**Clearance Officer: Garrick Shear (202)**535-4297, Internal Revenue Service,
room 5571, 1111 Constitution Avenue,
NW., Washington, DC 20224**OMB Reviewer: Milo Sunderhauf (202)**395-6880, Office of Management and
Budget, room 3001, New Executive
Office Building, Washington, DC 20503**Lois K. Holland,**Departmental Reports, Management Officer.**[FR Doc. 92-17659 Filed 7-24-92; 8:45 am]***BILLING CODE 4830-01-M**

Sunshine Act Meetings

Federal Register

Vol. 57, No. 144

Monday, July 27, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Portion of Agenda Item From July 16th Open Meeting

Consideration of a *Tentative Decision* concerning requests for pioneer's preferences in Gen Docket No. 90-314, previously listed as part of Item 9 in the Commission's Notice of July 9, 1992, was deleted from the Commission Meeting Agenda for July 16, 1992, and the matter has been returned to the staff for further consideration.

Issued: July 17, 1992.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-17695 Filed 7-23-92; 10:03 am]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 92-17576.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, July 30, 1992, 10:00 a.m., Meeting Open to the Public.

THE FOLLOWING ITEMS ARE ADDED TO THE AGENDA:

Gephhardt for President Committee, Inc., Request for Extension to Make Repayment to United States Treasury (LRA #338)
Jack Kemp for President Committee, Inc., Request for Extension to Make Repayment to United States Treasury (LRA #328)

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer,
Telephone: (202) 219-4155.

Delores R. Harris,

Administrative Assistant.

[FR Doc. 92-17637 Filed 7-23-92; 3:29 pm]

BILLING CODE 6715-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week July 27, 1992.

Open meetings will be held on Tuesday, July 28, 1992, at 10:00 a.m., and on Wednesday, July 29, 1992, at 10:00 a.m., in Room 1C30. A closed meeting will be held on Thursday, July 30, 1992, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the schedule matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Tuesday, July 28, 1992, at 10:00 a.m., will be:

1. Consideration of whether to propose for public comment Rules 2a19-2 and 2a3-1 under the Investment Company Act of 1940 (the "Act"). Rule 2a19-2 would conditionally exempt certain general partners of management investment companies and business development companies from the definition of "interested person" under the Act. Rule 2a3-1 would exempt certain limited partners from the definition of "affiliated person" under the Act. For further information, please contact Edward J. Rubenstein at (202) 272-2048.

2. Consideration of whether to propose for public comment rule 23c-3 under the Investment Company Act (the "Act"), together with rule 14e-6 under the Securities Exchange Act (the "Exchange Act") and amendments to rules 10b-6 and 13e-4 under the Exchange Act. Rule 23c-3 would provide for periodic repurchases by closed-end management investment companies at net asset value. Consideration also will be given to whether to propose for public comment rule 22e-3 under the Act, together with rule 27c-2 under the Act and amendments to rules 0-1 and 22c-1 under the Act. Rule 22e-3 would exempt certain open-end management investment companies and registered separate accounts from the prohibition in section 22(e) of the Act on suspending redemptions or taking longer than seven days to make payment upon redemptions. Consideration also will be given to publishing for comment staff guidelines to Forms N-1A, N-2, N-3, and N-4 under the Act. For further information, please contact Robert G. Bagnall or Karen L. Skidmore, at (202) 272-2048.

3. Consideration of whether to authorize the Division of Investment Management to apply the Investment Advisers Act of 1940 on the basis of conduct and effects in responding to a no-action request. The Division of Investment Management has proposed to require foreign advisers to comply with the Advisers Act only with respect to their

United States clients. In addition, the Division of Investment Management has proposed to permit foreign advisers not registered with the Commission greater flexibility in organizing subsidiaries that are registered advisers. For further information, please contact Eli Nathans at (202) 272-3021.

The subject matter of the open meeting scheduled for Wednesday, July 29, 1992, at 10:00 A.M., will be:

1. Consideration of whether to amend Regulation E under the Securities Act of 1933. Regulation E provides a conditional exemption from registration under the 1933 Act for securities issued by small business investment companies that are registered under the Investment Company Act of 1940 and by business development companies that elect to be regulated under the 1940 Act. The amendments would increase the aggregate offering price of (a) securities of a small business investment company that may be offered within a twelve-month period from \$5 million to \$15 million and (b) securities of a small business investment company or business development company offered by a person other than the issuer from \$100,000 to \$1.5 million. For further information, please contact Kathleen K. Clarke at (202) 272-2097.

2. Consideration of whether to adopt the Small Business Initiatives proposed by the Commission on March 11, 1992, including significant revisions to the exempt offerings available to small business issuers and the registration and reporting system for such issuers. For further information, please contact Martin Dunn or Amy Bowerman at (202) 272-2573.

3. Consideration of whether to propose additional rule and form changes applicable to small business issuers, intended to facilitate their access to the capital markets and decrease their costs of compliance with registration and reporting requirements. For further information, please contact Martin Dunn or Amy Bowerman at (202) 272-2573.

The subject matter of the closed meeting scheduled for Thursday, July 30, 1992, at 10:00 a.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Steve Luparello at (202) 272-2100.

Dated: July 22, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-17554 Filed 7-23-92; 2:23 pm]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1450]

TIME AND DATE: 10 a.m. (EDT),

Wednesday, July 29, 1992.

PLACE: TVA Knoxville Office Complex,
400 West Summit Hill Drive, Knoxville,
Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting
held on June 16, 1992.

DISCUSSION ITEM:

1. Preliminary Rate Review.

ACTION ITEMS:

New Business

C—Power

C1. Modification of Growth Credit Program
to Include Certain Customers with Demands
Between 250 kW and 1000 kW.

C2. Interruptible Wheeling by TVA for
Louisville Gas and Electric Company.

E—Real Property Transactions

E1. Public Action Sale of the Reese Ferry,
Alabama, Metering Station Property

Affecting Approximately 1.27 Acres of Land
in Jackson County, Alabama.

E2. Public Auction Sale of Chickamauga-
Georgia State Line Transmission Line
Property Affecting Approximately 0.57 Acre
in Hamilton County, Tennessee.

E3. Sale of Permanent Easement Affecting
Approximately 0.16 Acre of East McMinnville
Substation Property in McMinnville,
Tennessee.

E4. Abandonment of Easement Rights
Affecting Approximately 1 Acre of Fort
Loudoun Lake Land in Knox County,
Tennessee.

E5. Grant of Permanent Easement Affecting
Approximately 0.47 Acre of Guntersville Lake
Land in Marion County, Tennessee.

F—Unclassified

F1. Filing of Condemnation Cases.

F2. Personal Service Contract with Kuether
& Associates, Inc.

F3. Personal Services Contract with
Parsons Main, Inc.

F4. Supplement to Contract No. TV-83425V
With Bechtel Corporation.

F5. Supplement to Personal Services
Contract No. TV-82788V with ViaTech
Services, Inc.

F6. Supplement to Personal Services
Contract No. TV-82909V with B&W Nuclear
Services Company.

INFORMATION ITEMS:

1. Appointment of TVA's Designated
Agency Safety and Health Official.
2. Memorandum of Understanding Between
TVA and the National Rural Electric
Cooperative Association.
3. Agreement with West Town Mall Joint
Venture for the Relocation of TVA
Transmission Lines and Associated Matters.
4. Delegation of Authority to Approve
Supplements to Personal Services Contracts
with ENSR Consulting and Engineering and
Science Applications International
Corporation for Standby Environmental
Support.

CONTACT PERSON FOR MORE

INFORMATION: Alan Carmichael, Vice
President, Governmental Relations, or a
member of his staff can respond to
requests for information about this
meeting. Call (615) 632-6000, Knoxville,
Tennessee. Information is also available
at TVA's Washington Office (202) 479-
4412.

Dated: July 22, 1992.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 92-17805 Filed 7-23-92; 2:24 pm]

BILLING CODE 8120-08-M

Corrections

Federal Register

Vol. 57, No. 144

Monday, July 27, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 356

[Docket No. 81N-0033]

RIN 0905-AA06

Oral Health Care Drug Products for Over-the-Counter Human Use; Proposed Amendment to the Tentative Final Monograph

Correction

In the issue of Thursday, July 9, 1992, on page 30534, in the second column, in

the correction of proposed rule document 92-11177, the corrected heading should read as follows:

"§ 356.52 [Corrected]".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Native American Programs, Final Total Allocations, Allocation Formulas and Formula Rationales for Program Year 1992 Regular Program and Calendar Year 1992 Summer Youth Employment Program

Correction

In notice document 92-10229 beginning on page 18927 in the issue of Friday, May 1, 1992, make the following corrections:

1. On page 18929, in the 1st column of the table, in the 26th entry, in the 1st

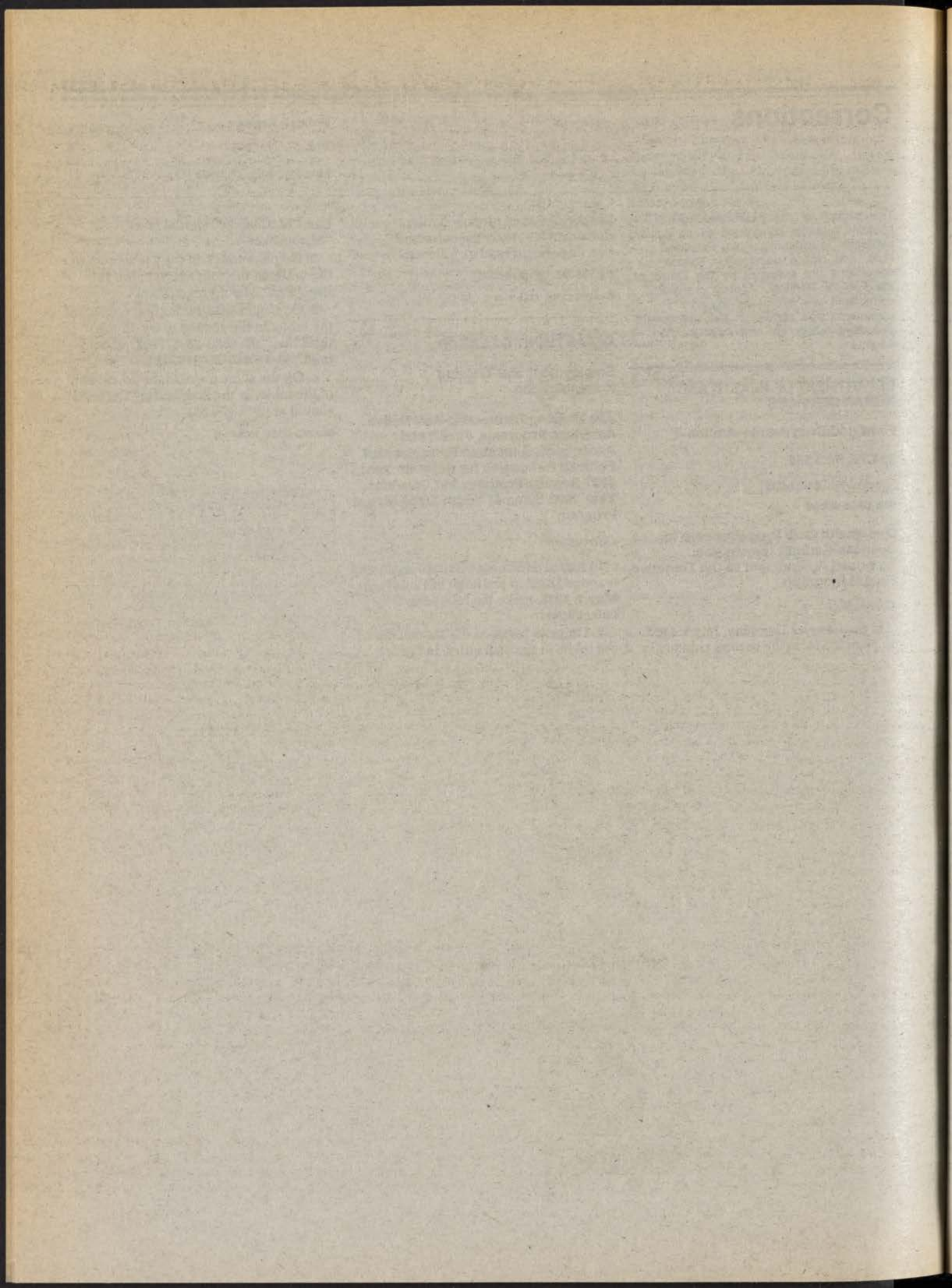
line, "McCosikee" should read "Miccosukee".

2. On page 18931, in the 1st column of the table, in the 26th entry, in the 1st line, "Zini" should read "Zuni".

3. On page 18932, in the first column of the table, in the second entry, in the third line, "99-0689-55-177-02" should read "99-1-0689-55-177-02".

4. On the same page, in the 2d column of the table, in the 20th entry, "1,476,263" should read "1,476,283".

BILLING CODE 1505-01-D



Registered Federal Reporter

**Monday
July 27, 1992**

Part II

**Department of
Education**

**Rehabilitation Short-Term Training;
Proposed Priorities for Fiscal Year 1992;
Notice**

DEPARTMENT OF EDUCATION

Rehabilitation Short-Term Training;
Proposed Priorities for Fiscal Year
1993

AGENCY: Department of Education

ACTION: Notice of proposed priorities for
fiscal year 1993.

SUMMARY: The Secretary proposes priorities for fiscal year 1993 under the Rehabilitation Short-Term Training program. The Secretary takes this action to focus Federal financial assistance on areas of identified national need. These priorities are intended to maintain and upgrade the basic skills and knowledge of trained rehabilitation professionals in the areas of: (1) Functional assessment of individuals with cognitive disabilities; and (2) provisions of the Individuals with Disabilities Education Act (IDEA).

DATES: Comments must be received on or before August 26, 1992.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Ann Queen, U.S. Department of Education, 400 Maryland Avenue, SW., room 3038 Switzer Building, Washington, DC 20202-2649.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Melia, U.S. Department of Education, 400 Maryland Avenue, SW., room 3324 Switzer Building, Washington, DC 20202-2649. Telephone: (202) 732-1400. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Rehabilitation Short-Term Training program is authorized by section 304 of title III of the Rehabilitation Act of 1973, as amended. The purpose of this discretionary grant program is to provide Federal support for the development and conduct of special seminars, institutes, workshops, and other short-term courses in technical matters relating to the delivery of vocational, medical, social, and psychological rehabilitation services.

This program supports AMERICA 2000, the President's strategy for helping the nation move toward achievement of the National Education Goals. These proposed priorities would advance goal five, which calls for every adult American to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The Secretary will announce the final priorities in a notice in the *Federal Register*. The final priorities will be

determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. A notice inviting applications under these competitions will be published in the *Federal Register* concurrent with or following publication of the notice of final priorities.

Priorities

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet one of the following priorities. The Secretary proposes to fund under these competitions only applications that meet one of these absolute priorities:

*Proposed Priority 1—Functional
Assessment of Individuals With
Cognitive Disabilities*

Background

Rehabilitation planning and decision making must be based on valid, relevant information derived from assessments that delineate an individual's strengths and limitations. Various studies funded by the Rehabilitation Services Administration (RSA) (Indices, 1978; Institute on Rehabilitation Issues, 1983; Policy Studies Associates, 1988; and Berkeley Planning Associates, 1989) indicate that a functional assessment approach yields pertinent information that leads to accurate and supportable decisions on eligibility and determinations of severity of handicap. Also, accurate functional assessment improves the formulation of vocational goals and the establishment of intermediate objectives and services to accomplish individualized written rehabilitation programs.

Although considerable instrumentation has been developed for functional assessment, and although vocational rehabilitation (VR) practice now incorporates significant use of the functional assessment approach, rehabilitation practitioners often have not received specific training to carry out functional assessment (Halpren, A.S., and Fuhrer, M.S., eds., *Functional Assessment in Rehabilitation*, Paul H. Brookes Publishing Co., 1984). The need is particularly acute to train practitioners to assess individuals with cognitive disabilities, including persons

with specific learning disabilities, traumatic brain injury, severe and persistent mental illness, and autism (Fifth National Forum on Issues in Vocational Assessment, University of Wisconsin-Stout, 1991). Persons with these disabilities often have functional capacities that are difficult to assess, thus requiring special care in selection of instrumentation and an interdisciplinary approach to interpretation of findings (RSA Program Circular 90-07).

The Secretary also proposes to fund several Special Projects and Demonstrations in FY 1993 that will develop model approaches to functional assessment for individuals with cognitive disabilities. The Secretary will coordinate the oversight and administration of these projects to assure that rehabilitation professionals, educators, and related agencies and organizations derive the maximum benefits from these efforts to improve functional assessment of individuals with cognitive disabilities.

Priority

Projects must—

- Develop training to enhance rehabilitation functional assessments and related services provided by practitioners working in public and related nonprofit private agencies to individuals with specific learning disabilities, traumatic brain injury, severe and persistent mental illness, and autism;

- Provide this training for educators who are preparing individuals for careers in rehabilitation and for trainers of personnel working in or with State VR agencies, centers for independent living, client assistance programs, rehabilitation facilities, and community-based programs for individuals with disabilities; and

- Be national in scope and demonstrate potential for replication based on project outcomes through the dissemination of training materials and protocols.

*Proposed Priority 2—Training
Rehabilitation Practitioners and
Educators on Provisions of the
Individuals With Disabilities Education
Act (IDEA)*

Background

The recently enacted Individuals with Disabilities Education Act, Public Law 101-476, 20 U.S.C. chapter 33, 1990, attempts to address some of the issues relating to the transition of individuals with disabilities from school to work. IDEA has expanded the definition of

"transition services" to encompass post-school outcomes, such as competitive integrated employment, supported employment, and independent living. IDEA requires the identification of employment and other post-school adult living objectives in any transition-related planning. IDEA mandates that individualized education plans (IEPs) reflect the nature and scope of interagency linkages and responsibilities.

Educators who are preparing individuals for careers in rehabilitation and trainers of personnel working in or with State VR agencies need to become familiar with these new requirements and modify existing curricula to reflect these new provisions and their impact on VR services. Under IDEA, State VR personnel will be more actively involved in transition planning for students with disabilities.

RSA will coordinate the oversight of this project with the Office of Special Education (OSEP) to assure that the training provided is consistent with the regulations and related guidance and policy materials developed by OSEP for implementation of IDEA.

Priority

Projects must—

- Develop training on: (1) The transition requirements of the IDEA and (2) the impact of these new requirements on the provision of vocational rehabilitation services to students with disabilities. The training must focus on the involvement of VR personnel in the development and modification of IEPs and the importance of collaboration between VR counselors and special education teachers in the successful transition of individuals with disabilities from school to work;

- Provide training through seminars or workshops for preservice educators and State VR agency personnel on the transition requirements under the IDEA; and

- Be national in scope and demonstrate potential for replication based on project outcomes through the dissemination of training materials and protocols.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local

governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3324 Mary E. Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR parts 385 and 390.

Program Authority: 29 U.S.C. 774. (Catalog of Federal Domestic Assistance Number 84.246, Rehabilitation Short-Term Training)

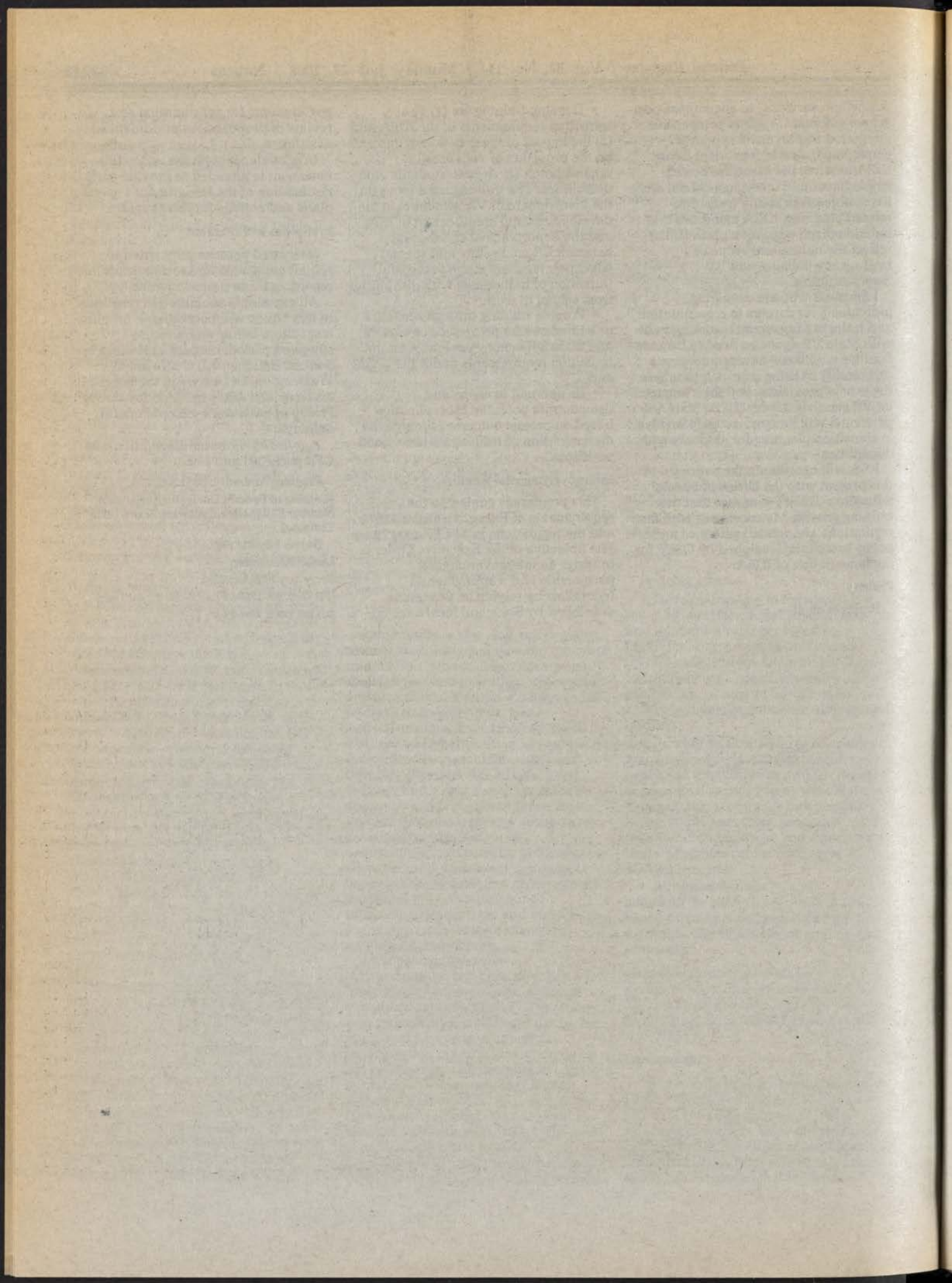
Dated: July 21, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-17594 Filed 7-24-92; 8:45 am]

BILLING CODE 4000-01-M



Federal Register

Monday
July 27, 1992

Part III

**Department of
Health and Human
Services**

Food and Drug Administration

21 CFR Part 573

**Food Additives Permitted in Feed and
Drinking Water of Animals; Selenium;
Final Rule**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. 86F-0060]

Food Additives Permitted in Feed and Drinking Water of Animals; Selenium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; denial of certain requests for hearing and response to certain objections.

SUMMARY: The Food and Drug Administration (FDA) is denying certain requests that it has received for a hearing on and stay of a final rule (April 6, 1987 (52 FR 10887)), that increased the maximum permitted use level of selenium in animal feeds. After reviewing the objections to, and the requests for a hearing on and stay of, the final rule based on human food safety, animal safety, manufacturing controls, economic harm, and certain procedural issues, FDA has concluded that those objections do not raise a genuine and substantial issue of fact that justifies a hearing or staying the final rule.

FDA is deferring a decision on requests for a stay of and a hearing on the final rule based on claimed actual and potential adverse environmental effects of the increased level of selenium permitted by the final rule, pending a legislative-type hearing on those claimed effects. That hearing will be held on August 25 and 26, 1992, as announced in a notice published in the *Federal Register* of June 26, 1992 (57 FR 28606).

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV09226), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8731.

SUPPLEMENTARY INFORMATION:

I. Background

In the *Federal Register* of April 6, 1987 (52 FR 10887) (corrected June 4, 1987, 52 FR 21001), in response to a petition by the American Feed Industry Association, 1501 Wilson Blvd., suite 1100, Arlington, VA 22209, FDA issued a final rule (the 1987 amendments) amending the selenium food additive regulation, § 573.920 (21 CFR 573.920). The 1987 amendments permitted: (1) An increase from 0.1 to 0.3 part per million (ppm) in the level of selenium (as sodium selenite or sodium selenate) in complete feeds for cattle, sheep, chickens, ducks, and swine (except for

weanling swine, which was already approved at 0.3 ppm); (2) an increase from 0.2 to 0.3 ppm for turkeys; (3) a proportional increase in the limit feeding (feed supplements and salt-mineral mixtures) consumption rates for sheep and beef cattle to 0.7 and 3 milligrams per head per day, respectively; (4) an increase in the selenium fortification levels for salt-mineral mixtures for sheep and cattle to 90 and 120 ppm, respectively; and (5) more flexibility in certain manufacturing controls by eliminating the requirement for premix manufacturers to analyze each production batch of selenium premix. At the time, the regulation was amended to include requirements for current good manufacturing practices (CGMP's). FDA based its decision on manufacturing and safety data in the petition and in its files. The agency had published a notice announcing the filing of the food additive petition (FAP 2201) in the *Federal Register* of February 21, 1986 (51 FR 6321). Persons adversely affected by the 1987 amendments were given the opportunity to file objections to it by May 6, 1987.

In April, May, and July 1987, six organizations filed objections to or comments on the 1987 amendments. Some of these organizations requested a hearing on their objections, a stay of the 1987 amendments, or both a hearing and a stay on the grounds that the agency had not properly considered the effect of the amendments on the environment, on human food safety, on target animal safety, on manufacturing controls, or on the economic viability of a company. There were, in addition, objections based on alleged procedural deficiencies in the proceeding. Finally, one organization (the National Mixer-Feeder Association) objected to the 1987 amendments on the grounds that the level of selenium allowed in the selenium premixes was not proportionally increased with the increase in selenium permitted in the feed. This objection was appropriate and the agency corrected the oversight in the June 4, 1987, correction to the final rule.

In response to the June 4, 1987, correction to the 1987 amendments, one organization (Micro Tracers, Inc.) filed an additional objection on July 3, 1987, and requested the agency to rescind the amendments on the grounds that the agency had not properly considered the impact of increasing the potency of selenium premixes and eliminating the requirement that every batch of selenium premix be analyzed.

The most substantial requests for a stay or a hearing were grounded in objections to the environmental impact

analysis report submitted by the American Feed Industry Association or the agency's finding of no significant impact. Those requests were based on claims of actual and potential significant adverse environmental effects due to the 1987 amendments. In order to update the existing environmental analysis with additional information from the scientific literature and to obtain additional information on certain environmental issues, FDA's Center for Veterinary Medicine (CVM) set out its tentative responses to those issues in a notice published in the *Federal Register* of July 11, 1989 (54 FR 29019) (the 1989 notice). The 1989 notice also provided an opportunity for additional comments on the environmental issues.

This document does not address any of the environmentally based objections lodged in support of requests for a stay of or a hearing on the 1987 amendments. FDA will make a decision on those requests and respond to those objections following a legislative-type hearing under 21 CFR part 15 on the environmental issues identified in the notice of hearing as published in the *Federal Register* of June 26, 1992 (57 FR 28606).

This document denies requests for a stay of or a hearing on the 1987 amendments and responds to objections to those amendments insofar as the requests and objections relate to human food safety, target animal safety, manufacturing controls, claims of economic harm, and certain alleged procedural deficiencies.

A. Requests for Hearing and Stay

Section 409(f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(f)) provides that within 30 days after publication of an order relating to a food additive regulation, any person adversely affected by such an order may file objections specifying with particularity the provisions of the order considered objectionable, stating reasonable grounds for the objections, and requesting a public hearing on such objections.

Under § 571.110 (21 CFR 571.110) of the food additive regulations, objections and requests for a hearing are governed by part 12 of FDA's regulations (21 CFR part 12). Under § 12.22(a): (1) Each objection must be submitted on or before the 30th day after the date of publication of the final rule; (2) each objection must be separately numbered; (3) each objection must specify with particularity the provision of the regulation or proposed order objected to; (4) each objection on which a hearing is requested must specifically so state;

failure to request a hearing on an objection constitutes a waiver of the right to a hearing on that objection; and (5) each objection requesting a hearing must include a detailed description and analysis of the factual information to be presented in support of the objection. Failure to include a description and analysis for an objection constitutes a waiver of the right to a hearing on that objection.

B. Standard for Granting a Hearing

The criteria for deciding whether to grant or deny a hearing are stated in § 12.24(b). The regulation states that a hearing will be granted when the material submitted shows the following:

(1) There is a genuine and substantial issue of fact for resolution at a hearing. A hearing will not be granted on issues of policy or law.

(2) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be granted on the basis of mere allegations, denials, or general descriptions of positions and contentions.

(3) The data and information submitted, if established at a hearing, would be adequate to justify resolution of the factual issue in the way sought by the person. A hearing will be denied if the Commissioner of Food and Drugs (the Commissioner) concludes that the data and information submitted are insufficient to justify the factual determination urged, even if accurate.

(4) Resolution of the factual issue in the way sought by the person is adequate to justify the action requested. A hearing will not be granted on factual issues that are not determinative with respect to the action requested, e.g., if the Commissioner concludes that the action would be the same even if the factual issue were resolved in the way sought, or if a request is made that a final regulation include a provision not reasonably encompassed by the proposal.

(5) The action requested is not inconsistent with any provision in the act or any regulation in this chapter particularizing statutory standards. The proper procedure in those circumstances is for the person requesting the hearing to petition for an amendment or waiver of the regulation involved.

(6) The requirements in other applicable regulations, e.g., 21 CFR 10.20, 12.21, 12.22, 314.200, 514.200, and 601.7(a), and in the notice promulgating the final regulation or the notice of opportunity for hearing are met.

A party seeking a hearing is required to meet a "threshold burden of tendering evidence suggesting the need for a hearing." *Costle v. Pacific Legal*

Foundation, 445 U.S. 198, 21409215 (1980), reh. den., 445 U.S. 947 (1980), citing *Weinberger v. Hynson, Westcott, and Dunning, Inc.*, 412 U.S. 609, 62009621 (1973). An allegation that a hearing is necessary to "sharpen the issues" or to "fully develop the facts" does not meet this test. *Georgia Pacific Corp. v. U.S. E.P.A.*, 671 F.2d 1235, 1241 (9th Cir. 1982). If a hearing request fails to identify any evidence that would be the subject of a hearing, there is no point in holding one.

A hearing request must not only contain evidence, but that evidence must raise a material issue of fact concerning which a meaningful hearing might be held. *Pineapple Growers Ass'n v. FDA*, 673 F.2d 1083, 1085 (9th Cir. 1982). Where the issues raised in the objection are, even if true, legally insufficient to alter the decision, the agency need not grant a hearing. *Dyestuffs and Chemicals, Inc. v. Flemming*, 271 F.2d 281 (8th Cir. 1959), cert. denied, 362 U.S. 911 (1960). FDA need not grant a hearing in each case where an objector submits additional information or posits a novel interpretation of existing information. (See *United States v. Consolidated Mines & Smelting Co.*, 455 F.2d 432 (9th Cir. 1971)). Put another way, a hearing is justified only if the objections are made in good faith, and if they "draw in question in a material way the underpinnings of the regulation at issue." *Pactra Industries v. CPSC*, 555 F.2d 677 (9th Cir. 1977). Finally, courts have uniformly recognized that a hearing need not be held to resolve questions of law or policy. (See *Citizens for Allegan County, Inc. v. FPC*, 414 F.2d 1125 (D.C. Cir. 1969); *Sun Oil Co. v. FPC*, 256 F.2d 233, 240 (5th Cir.), cert. denied, 358 U.S. 872 (1958)).

As discussed in section II. of this document, FDA is denying the nonenvironmentally related requests that it received for a hearing on the 1987 amendments because none of those requests raises a genuine and substantial issue of fact.

C. Standard for Granting a Discretionary Stay

Under section 409(e) of the act (21 U.S.C. 348(e)), a food additive regulation is effective upon publication. Section 409(e) of the act also provides, however, that FDA may stay the effective date of the regulation if a hearing is requested. Section 10.35(d)(1) of the agency's regulations governing administrative stay of action provides that FDA may grant a stay in those situations in which the stay is in the public interest.

Prior to promulgation of the final rule amending the selenium food additive regulation, the agency made a

determination that increasing the permitted level of supplemental selenium in animal feed was safe. To justify a stay pending a hearing, the objections would have to make a substantial showing to the contrary (40 FR 40682 at 40687, September 3, 1975). FDA is denying as moot requests for a stay submitted by American Council of Independent Laboratories, Inc., and Micro Tracers, Inc. Those requests were based on human food safety, target animal safety, manufacturing controls, economic harm, and certain alleged procedural deficiencies. The requests are moot because the agency has determined that the objections and evidence submitted do not justify a hearing. (See section II. of this document.)

D. Objections to and Comments on the 1987 Amendments

FDA received five objections to and one comment on the 1987 amendments. Four of the objections were accompanied by a request for a hearing or a stay. One objection requesting a hearing also requested that an environmental impact statement (EIS) be prepared. That objection will not be addressed in this document but will be addressed following the legislative-type hearing on certain environmental issues.

One objection to and one comment on the 1987 amendments pointed to a specific aspect of the rule, but did not request a hearing. However, to the extent that that objection was similar to an objection that was accompanied by a request for a hearing, the former will be discussed along with the latter. Several objections that incorporated a request for a hearing were not submitted to FDA until after the close of the objection period. Hence, those objections failed to satisfy the requirements of section 409(f)(1) of the act (21 U.S.C. 348(f)(1)) and need not be considered further by the agency. *ICMAD v. HEW*, 574 F.2d 553, 558 n.8 (D.C. Cir.), cert. denied, 439 U.S. 893 (1978). However, to the extent that issues raised in the tardy objections were also raised by the timely objections, they will also be addressed in this document.

II. Objections and Comments

A. Human Food Safety

The State of California Health and Welfare Agency, Micro Tracers, Inc., and the Natural Resources Defense Council claimed that the agency did not adequately consider the effect of increasing the allowable levels of selenium in animal diets and the resulting selenium levels in animal

products on the human dietary intake of selenium. Each organization then argued that the increase in human dietary intake of selenium would pose a significant risk to human health (ref. 1, p. 1; ref. 2, p. 10; and ref. 3, p. 2). Micro Tracers, Inc., and the Natural Resources Defense Council requested a hearing.

The State of California Health and Welfare Agency, Micro Tracers, Inc., and the Natural Resources Defense Council alleged that the selenium content of food products including meat, eggs, and milk will increase as a result of the 1987 amendments. Factual information submitted in support of this objection did not contain any specific evidence to challenge the agency's conclusions that the levels of selenium found in tissues of animals supplemented with 0.3 ppm of selenium are within the normal range of values found in tissues of unsupplemented animals fed adequate levels of selenium and that these levels are safe to humans who consume those tissues. This range of normal values was set out by the agency in a January 21, 1987, memorandum and placed on file in the docket of this proceeding (ref. 4).

Two pertinent articles cited by the objectors (studies by Arnold et al. (ref. 5) and Ort and Latshaw (ref. 6)) considered levels of dietary selenium much higher than that provided for in the 1987 amendments. Dietary selenium levels of 0.2, 2.0, and 8.0 ppm were fed to hens in the study by Arnold et al. The selenium level (0.9 ppm) found in the target tissue (liver) in hens supplemented with 2.0 ppm of selenium was within the range of normal values (0.1 to 0.9 ppm (ref. 4)). Ort and Latshaw studied the liver and egg selenium values in laying hens fed 0, 0.1, 1.0, 3.0, and 5.0 ppm of selenium (ref. 6). When interpolated by FDA to a level of 0.3 ppm supplemental selenium, selenium concentrations are approximately 0.38 ppm in the liver and 0.22 ppm for whole eggs. Both values are within the normal values for liver (0.1 and 0.9 ppm) and eggs (0.1 to 0.5 ppm) (ref. 4).

The State of California Health and Welfare Agency, Micro Tracers, Inc., and the Natural Resources Defense Council ignore the fact that, according to Arnold et al. (ref. 5), eggs from hens fed semipurified diets, with 2.0 ppm of selenium added, contained selenium in amounts similar to those found in eggs from hens fed unsupplemented corn-soy diets (containing 0.4 ppm of selenium). Those organizations also overlook the fact that, according to Ort and Latshaw (ref. 6), if chickens were fed toxic levels of selenium, it is improbable that the

meat and eggs would be toxic to humans.

In addition to the studies by Arnold et al. (ref. 5) and Ort and Latshaw (ref. 6), the Natural Resources Defense Council referred to a study by Goehring et al. (ref. 7) in which swine were fed diets supplemented with sodium selenite to provide selenium levels ranging from 0.54 to 8.3 ppm. This study did not evaluate tissue selenium levels at supplementation rates under the conditions set forth in § 573.920. Nevertheless, swine supplemented at the 0.54 ppm level averaged a selenium liver concentration of 0.64 ppm, which is within the normal range (0.1 to 0.9 ppm) for swine fed diets unsupplemented with selenium (ref. 7).

None of these studies provides a basis to contest the agency's conclusion regarding levels of selenium in tissue, nor do they provide a basis for a hearing. Quite the contrary, the studies support the conclusion in question. Moreover, data collected by FDA from 1982 to 1989 as part of the United States Total Diet Study (ref. 8) show no significant increase in the average selenium content of eggs (0.25 ppm) or beef liver (0.58 ppm) or in the daily selenium intake for the eight age/sex groups studied as part of the survey (refs. 9 and 10).

In further support of its argument that human food safety had not been adequately considered, the Natural Resources Defense Council alleged that as a result of the increase in selenium in animal feed: (1) The increased levels of selenium in animal wastes, which when used as fertilizers, may lead to higher levels of selenium in food crops; (2) bioconcentration and bioaccumulation of selenium will occur in the aquatic food chain as a result of agricultural runoff and will increase the level of selenium in fish and wildfowl; and (3) the occurrence of *Salmonella* bacterial contamination of the meat will increase (ref. 3, p. 4). Micro Tracers, Inc., also alleged that the increase in supplemental selenium in feeds (ref. 2, p. 10) and the increase in the level of selenium permitted in the premix (ref. 2, p. 24) would lead to higher levels of selenium in food crops and increase the incidence of *Salmonella* in meat and poultry.

Points 1 and 2 relate to the indirect human food exposure to selenium through environmental routes because both the level of selenium in food crops grown using animal waste as fertilizers and the level of selenium in fish and wildfowl tissues are influenced by the environmental cycling of selenium. The agency has determined that these issues

are environmentally related as described in 40 CFR 1508.8 and, thus, FDA will not address them in this document. Rather, FDA will address these issues following the legislative-type hearing on certain environmental issues.

The Natural Resources Defense Council contended as a basis for point 3 that because sodium selenite enhances the growth of many species of *Salmonella* and inhibits the growth of other enteric bacteria in laboratory media, animal products derived from animals receiving *Salmonella*-contaminated feeds and increased level of selenium supplementation would have increased *Salmonella* contamination. This increase, in turn, would result in an increased incidence of risk of *Salmonella* infection in people (ref. 3, p. 5). The Natural Resources Defense Council provided three references allegedly demonstrating the growth-enhancing effect of selenium in enrichment broths and selective agars for the isolation of *Salmonella* (refs. 11, 12, and 13).

The Natural Resources Defense Council's contention (ref. 3, p. 10) that sodium selenite is an effective growth media for *Salmonella* is not correct. Sodium selenite is not used in growth media to stimulate the growth of *Salmonella*; selenium inhibits the growth of *Salmonella* but to a lesser extent than other organisms also normally present with *Salmonella*. The use of sodium selenite in growth media at a level of 0.4 percent (0.2 percent selenium) is to selectively inhibit the other organisms present to enable the isolation of *Salmonella* from various samples. Selective inhibition is discussed in the study by Banwert and Ayers (ref. 13) (cited by the Natural Resources Defense Council) in which the addition of 0.2 percent of selenium (2,000 ppm) to laboratory nutrient broth inhibited the growth of eight species of *Salmonella*. That level is 6,000 times higher than the 0.3 ppm permitted by the 1987 amendments. There was no evidence submitted to show that selenium at a level of 0.3 ppm will selectively inhibit enteric bacteria and result in increased *Salmonella* levels in animals.

The other studies cited by the Natural Resources Defense Council (refs. 11 and 12) did not include control values for the growth of organisms in a standard nutrient broth. Without such values, these studies are inadequate to demonstrate the effect of selenium on the growth of *Salmonella*.

The remaining information submitted by the Natural Resources Defense

Council and Micro Tracers, Inc. (refs. 14 and 15) also does not provide evidence to support the contention that the increased selenium level in feeds and premixes will increase the *Salmonella* contamination of animals receiving contaminated feeds because of the greater inhibiting effect of selenium on other enteric bacteria. Reference 14 suggests that in cases of selenium toxicity, the animal's immune function would be reduced, resulting in increased susceptibility to *Salmonella* infections. There are no data to show toxicity from selenium at the level of 0.3 ppm permitted by the 1987 amendments; quite the contrary, the data show that that level is safe. Thus, whatever the merits of the suggestion of reduced immune function and increased susceptibility to infection, the suggestion is inapplicable insofar as the 1987 amendments are concerned. Reference 15 addresses the contamination of meat and poultry with *Salmonella* and the adequacy of the U.S. Department of Agriculture's meat and poultry inspection programs. It is not relevant to the contention concerning selenium supplementation of animal feed and *Salmonella* contamination.

The Natural Resources Defense Council and Micro Tracers, Inc., have not provided any basis, nor cited any evidence, concerning *Salmonella* that would call into question the agency's conclusion regarding human food safety. Thus, they have failed to justify a hearing on this objection.

Micro Tracers, Inc., and the Natural Resources Defense Council alleged that elimination of the premix batch analysis requirement will increase the possibility of violations of the maximum levels permitted by the 1987 amendments, and consequently, increase human exposure to selenium (ref. 2, p. 10; and ref. 3, p. 5). These organizations contended that without the premix analysis requirement, manufacturers will use more selenium than allowed, thus increasing human exposure to selenium. No data were provided to support this contention. A hearing will not be granted on the basis of mere allegations or contentions (§ 12.24 (b)(2)). Micro Tracers, Inc., and the Natural Resources Defense Council must, at a minimum, "raise a material issue concerning which a meaningful hearing must be held." *Pineapple Growers Ass'n of Hawaii v. FDA*, *supra*.

The agency's analysis of the data and its conclusion on human food safety was placed on public file under docket number 86F090080 (ref. 4). Neither the State of California Health and Welfare Agency, Micro Tracers, Inc., nor the

Natural Resources Defense Council has proffered any evidence or explanation that challenges or calls into question the agency's analysis of the data or its conclusion that the amounts of selenium in edible animal products are insufficient to raise human health concerns. Therefore, the objectors have not met their "threshold burden of tendering evidence suggesting the need for a hearing." (See *Costle v. Pacific Legal Foundation*, *supra*.)

B. Animal Safety

Micro Tracers, Inc., alleged that impact on animal and poultry health was not adequately addressed in light of the elimination of the premix batch analysis requirement and requested a hearing on its objection (ref. 2, p. 11). (The requirement is described in detail in section II.C.1. of this document.) Micro Tracers, Inc., contended that since there were at least four incidents of selenium toxicity and animal death due to misformulated premixes prior to 1987, when the requirement of premix batch analysis was in place, elimination of the requirement would "lead to an increased number of misformulated selenium premixes and permit on-farm mixing of selenium into feeds leading to increased loss of animal and poultry life." Allegedly supporting information submitted by Micro Tracers, Inc., included a copy of an FDA Health Hazard Evaluation (class I recall of a swine vitamin-mineral premix overformulated with selenium) (ref. 16), three articles describing selenium toxicosis in swine (refs. 17, 18, and 19), an economic evaluation of the cost of misformulating a selenium premix versus the cost of batch analysis (ref. 20), and a 1983 list of premix manufacturers "in probable violation of the analysis requirements" (ref. 21).

None of the submitted information supports Micro Tracers, Inc.'s contention that FDA did not adequately consider the effect of the removal of the premix batch analysis requirement on animal safety. The 1982 FDA Health Hazard Evaluation, class I Recall (ref. 16) cited by Micro Tracers, Inc., was for an overformulated vitamin-mineral premix found to contain 2,500 ppm of selenium. The premix was implicated in the death of about 130 swine. FDA investigators found that a vitamin-mineral premix and not a 0.02 percent selenium premix (the type of premix subject to the premix batch analysis requirement) was the source of the excess selenium; violation of the CGMP's by not adequately cleaning the production facilities was the cause of the overformulation.

FDA considered this information before issuing the 1987 amendments. The information does not show that the premix batch analysis requirement for the 0.02 percent selenium premix would have prevented overformulation and protected animal health in this case. Rather, the information shows that adherence to CGMP is important in properly mixing a selenium premix and most likely would have prevented loss of animal life in this incident.

Micro Tracers, Inc., also cited three articles (refs. 17, 18, and 19) that describe incidents of selenium toxicosis in swine herds consuming feeds containing vitamin-mineral premixes with excess selenium (more than 10 ppm) and asserts that misformulated selenium premixes are responsible for the loss of animal life (ref. 2, p. 11). These studies show that selenium toxicosis and loss of animal life can result from feeds overformulated with selenium, but because the source of the excess selenium was not the premix subject to the premix batch analysis requirement, these studies do not establish that the requirement prevents overformulation or protects animal health.

The remaining information (an economic evaluation of the cost of misformulating a selenium premix versus the cost of batch analysis (ref. 20) and a 1983 list of premix manufacturers "in probable violation of the analysis requirements," (ref. 21)) consists of speculation based on theoretical calculations offered by Micro Tracers, Inc. The firm did not provide any factual evidence to support these theoretical calculations. A hearing will not be granted on the basis of mere allegations or contentions (21 CFR 12.24(b)(2)).

FDA does not dispute that selenium can be toxic. The agency recognizes that dietary selenium concentrations above 2 ppm can result in toxicosis. For this reason, FDA regulates selenium in animal food as a food additive, with a maximum supplemental level of 0.3 ppm in animal feeds, and requires premix manufacturers to follow CGMP and maintain complete production records to ensure that selenium premixes are properly formulated (§ 573.920(d)). (By contrast most other common mineral ingredients are considered to be generally recognized as safe (GRAS) (21 CFR part 582).) The objector has not provided any information that provides a basis, nor cited any evidence, that would call the agency's conclusion on animal safety into question. Thus, it has failed to justify a hearing on this objection.

C. Manufacturing Controls

1. Premix Analysis Requirement

Prior to the 1987 amendments, manufacturers of selenium premixes were required by § 573.920(d) to analyze each production batch of 0.02 percent selenium premix used to supplement complete feeds for chickens, swine, sheep, beef and dairy cattle, and ducks, and each production batch of 1.0 percent selenium used to supplement salt-mineral mixtures for sheep and beef and dairy cattle and establish that the level of selenium in the premix did not exceed the maximum level. In the 1987 amendments, FDA removed the requirement that premix manufacturers assay every batch of selenium premix. This change was made in response to the FAP submitted by the American Feed Industry Association.

The premix analysis requirement was incorporated into the original food additive regulation for selenium (39 FR 1355, January 8, 1974) over concerns regarding the toxicity of selenium and whether selenium could be safely incorporated into feed by the feed industry. The premix analysis requirement was intended to ensure the addition of selenium to animal feeds as provided for by the regulation. Given the history of safe use of selenium by the feed industry since 1974, the agency concluded that the requirement to analyze every production batch of selenium was excessive, impractical, and unnecessarily restrictive to ensure the safe use of selenium by that industry. Further, the premix analysis requirement exceeded that required for drugs used in animal feed.

FDA also amended § 573.920(d) to require that premix manufacturers maintain complete and accurate records of the production and distribution of selenium premixes and that each premix manufacturer institute production controls, which include analyses, to ensure the level of selenium and quality of the premix. The agency believes that these requirements are adequate to ensure the safe use of selenium in animal feeds.

The American Council of Independent Laboratories contended that the removal of the premix analysis requirement was not prudent in light of the cost of selenium formulation errors but provided no factual information to support its contention (ref. 22, p. 2). It submitted a letter dated January 5, 1987, from a scientist in the U.S. Department of the Interior's Fish and Wildlife Service commenting on the need for quality assurance and quality control procedures (ref. 23). The letter does not address the removal of the premix batch

analysis requirement. CVM agrees with the need for quality control and assurance procedures and for this reason amended § 573.920(d) to require appropriate production and quality controls.

Micro Tracers, Inc., (ref. 2, p. 7) and the Natural Resources Defense Council (ref. 3, p. 5) claimed that the removal of the premix batch analysis requirement would result in an increase in the misformulation of selenium in feeds and the possibility of violations of the maximum allowable limit. Micro Tracers, Inc., further alleged that the feed industry has violated the premix batch analysis requirement on a widespread basis (ref. 2, p. 7). These organizations requested a hearing on their objections.

The Natural Resources Defense Council provided no factual information to support its claim. Under FDA's regulations, a hearing will not be granted on the basis of mere allegations (§ 12.24(b)(2)). Consistent with this regulation, the relevant case law provides that where a party requesting a hearing only offers allegations without an adequate proffer to support them, the agency may properly disregard those allegations. *General Motors Corp. v. FERC*, 658 F.2d 791, 798 n. 20 (D.C. Cir. 1981).

Micro Tracers, Inc., submitted a copy of an FDA Health Hazard Evaluation for a class I recall of a swine vitamin-mineral premix overformulated with selenium (ref. 16), three journal articles describing selenium toxicosis in swine (refs. 17 through 19), an economic evaluation of the cost of misformulating a selenium premix versus the cost of batch analysis (ref. 20), and a 1983 list of premix manufacturers "in probable violation of the analysis requirements" (ref. 21). These references are also discussed in section II. B. of this document.

FDA previously considered the class I recall and the journal articles in reviewing the selenium FAP (ref. 24). The class I recall was not for a selenium premix. Rather, it was for a vitamin-mineral product found to contain 2,500 ppm selenium, and that product was not required to be analyzed for selenium. Thus, a requirement for batch analysis would not have prevented overformulation. The selenium toxicoses described in refs. 17, 18, and 19 resulted from feeds overformulated through the use of vitamin-mineral premixes added to diets and not to the use of the selenium premixes that were subject to the premix analysis requirement. The economic evaluation and the list of allegedly violative premix manufacturers are not relevant to the

question whether individual batch analysis is essential for quality control. Further, Micro Tracers, Inc.'s statement in a reference submitted to the agency (ref. 21) that approximately 80 percent of selenium added to feeds has been via the use of analyzed premixes undermines its claim of widespread violation of the premix analysis requirement. Micro Tracers, Inc., has not proffered any evidence that challenges or calls into question the agency's decision to remove the premix analysis requirement and has not met the "threshold burden of tendering evidence suggesting the need for a hearing." (See *Costle v. Pacific Legal Foundation*, *supra*).

2. Miscellaneous comments

Central Soya (ref. 25, p. 1) and the National Mixer-Feeder Association (ref. 26, p. 1) contended that FDA should delete the requirement in § 573.920(c)(1) that selenium be incorporated into a complete feed by adding no less than 1 pound of a premix. Central Soya also requested (ref. 25, p. 2) that the caution statement in § 573.920(e) be changed. The National Mixer-Feeder Association requested a hearing on its objection.

The requirement that selenium be added to a complete feed by using no less than 1 pound of premix and the required caution statement were not changed by the 1987 amendments. Moreover, none of the information in American Feed Industry Association's FAP provided any information about either of those requirements. Thus, neither requirement is in issue in this proceeding. The correct way to seek changes in § 570.920(c) and (e) is to file an FAP. Nevertheless, Central Soya and the National Mixer-Feeder Association commented on these sections of the regulation, and the agency will consider these comments.

The National Mixer-Feeder Association contended that the premix requirements set forth in § 573.920(c)(1) do not adequately ensure that the maximum levels of selenium will be observed because the practice of using dilute premixes to make complete feeds results in cross-contamination and increases the level of food additive in complete feeds. The National Mixer-Feeder Association also argued that by requiring that selenium be added to feed in a dilute premix to produce a complete feed, FDA is effectively precluding mixer-feeders from adding concentrated sources at levels below 1 pound per ton to produce a complete feed, even though evidence shows that the technology employed by mixer-feeders using concentrates is significantly less likely

to cause cross-contamination or violative levels of additives in complete feed. The National Mixer-Feeder Association argued that the 1 pound premix requirement is based upon two incorrect assumptions: first, that mixing errors and misuse are the primary cause of unsafe levels, and second, that additional mixing steps do not contribute to unsafe levels or cross contamination.

The National Mixer-Feeder Association cited five references on residues, cross-contamination, and premixing. The first four references (refs. 27 through 30) discuss the main causes of sulfa residues in swine as feed carryover in mixing equipment and feed transport systems and cross-contamination of nonmedicated and medicated feed. Sulfonamides have unique electrostatic properties making residues hard to remove from feed mill equipment (ref. 27). No information was provided to suggest, much less show, that this type of cross-contamination occurs with selenium premixes. The fifth reference discusses a nonpeer-reviewed study completed at Kansas State University (ref. 31). The study suggests that in well-controlled experiments using sophisticated mixing equipment, a mill can effectively use a concentrate to add microingredients rather than use a premix. FDA is aware of this study, but the agency has no information, nor did National Mixer-Feeder Association provide any data, to show that on-farm feed mixing equipment employed by mixer-feeders is capable of uniformly mixing microingredients using less than 1 pound per ton of feed.

When the selenium food additive regulation was established in 1974, the 1 pound requirement was based upon the smallest amount of an ingredient that feed manufacturers could mix uniformly or with an equal degree of dispersion into a ton of feed. In FDA's judgment, that requirement is still necessary for the safe manufacture of selenium-supplemented feeds, and Central Soya and National Mixer-Feeder Association have not provided any evidence for concluding that common mixing equipment used by feed manufacturers or mixer-feeders is capable of effectively mixing quantities less than 1 pound into a ton of feed, or that cross-contamination of selenium premixes, which would result in unsafe selenium premixes, occurs.

According to Central Soya, the caution statement assumes that the directions for premixes are for obtaining the maximum selenium level permitted by the regulation. The firm requested that the caution statement be amended

to read "Caution: Follow label directions. The addition of higher levels of selenium than approved by regulation is not permitted." Section 573.920(e) of the selenium regulation requires that the label or labeling of any selenium premix bear adequate directions for use and the following caution statement: "Caution: Follow label directions. The addition to feed of higher levels of this premix containing selenium is not permitted." The agency believes that adequate directions for use should include directions for mixing to achieve the maximum levels, as well as directions for including selenium at lower levels of use. On this basis, the present caution statement is appropriate for all use levels of selenium premixes.

D. Economic Harm

Micro Tracers, Inc., argued that removal of the premix analysis requirement would cause substantial economic harm to the company (ref. 2, p. 13). The substantial economic harm alleged by Micro Tracers, Inc., even if true, cannot justify a hearing on a food additive decision. That is because, as a matter of law, economic harm is not a factor that is part of FDA's decision to establish or amend a food additive regulation. Section 409 of the act specifies a number of factors FDA is to consider in deciding whether to issue a food additive regulation. Those factors do not include economic considerations, and FDA concludes that the food additive provisions of the statute do not permit, much less invite, analysis of costs to Micro Tracers, Inc., in this matter. See *Nitrofurans; Withdrawal of Approval of New Animal Drug Applications; Final rule; final decision following a formal evidentiary public hearing* (August 23, 1991, 56 FR 41902 at 41903), citing *American Textile Manufacturers Institute v. Donovan*, 452 U.S. 490 (1981).

E. Objections Based on Alleged Procedural Deficiencies

The American Council of Independent Laboratories and Micro Tracers, Inc., argued that the agency failed to publish a proposed rule with an opportunity for comment, followed by a final rule based on the agency's study and evaluation of the comments received (ref. 2, p. 7; and ref. 22). Micro Tracers, Inc., requested a hearing on that objection. Additionally, the Natural Resources Defense Council requested, by letter of April 24, 1987 (ref. 32), that the comment period (meaning the period to file objections) be extended for 45 days.

Neither the act nor the agency's regulations requires the agency to issue a general notice of proposed rulemaking

to establish a food additive regulation. The statute and the regulations require instead the publication of a notice of filing of an FAP, followed by a final rule establishing a food additive regulation, if appropriate. (See section 409(b)(5) and (c) of the act and § 571.1(i)(2) and (j).) Notice was given in the *Federal Register* of February 21, 1986 (51 FR 6321), that FDA had filed and was considering the American Feed Industry Association's petition to amend the selenium food additive regulation. The final rule amending the regulation, published on April 6, 1987 (52 FR 10887), provided a 30-day period for anyone adversely affected by the ruling to file an objection. In short, the act sets out specific procedures to be followed in rulemaking in response to an FAP, and FDA has fully complied with these procedures in this matter.

The time period for objections is established by statute. Section 409(f) of the act provides that any person adversely affected by publication of an order may file objections within 30 days after such order (*ICMAD v. HEW*, 574 F.2d at 558 n.8.).

A hearing will not be granted on issues of policy or law (§ 12.24(b)(1)). Thus, FDA's publication of a final rule following a notice of the filing of an FAP and the time period for objections, in observance of statutory procedures, are not issues on which a hearing can be held.

The Natural Resources Defense Council and Micro Tracers, Inc., also claimed that staff of CVM advised two California State agencies that FDA would publish a proposed rule, with 60 days for comment, prior to publishing a final rule to amend the selenium food additive regulation (ref. 2, p. 7; and ref. 3, p. 3). Such statements by FDA personnel do not constitute a statement by FDA and are not binding on the agency (§ 10.85(k); see *Stauffer Chemical Co. v. FDA*, No. 80095769 (9th Cir. Jan. 20, 1982), and do not justify a hearing, particularly if founded on a misunderstanding of applicable statutory procedures. In any event, the statutory procedure for notice of filing of the FAP and for filing objections to and requests for hearing on the final rule provided opportunities for persons adversely affected by the final rule to participate in the proceeding.

III. References

The following references have been placed on display in the Dockets Management Branch (HFA09305), Food and Drug Administration, Rm. 10923, 12420 Parklawn Dr., Rockville, MD 20857, and may be seen by interested

persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Fan, A. M., The State of California Health and Welfare Agency, Obj. 2 to FDA Docket No. 86F090060, April 29, 1987.

2. Eisenberg, D. A., Micro Tracers, Inc., Obj. 4 and Obj. 8 to FDA Docket No. 86F090060, May 4, 1987 and July 3, 1987.

3. Ahmend, A. K., N. J. Chorover, and M. Deerey, The National Resources Defense Council, Obj. 7 to FDA Docket No. 86F090060, May 6, 1987 and June 6, 1987.

4. Livingston, R., Director, Division of New Animal Drug Evaluation, CVM, memorandum to George Graber, Director, Division of Animal Feeds, CVM, January 21, 1987.

5. Arnold, R. L. et al., "Dietary Selenium and Arsenic Additions and Their Effects on Tissue and Egg Selenium," *Poultry Science*, 52:847, 1973.

6. Ort, J. F. and J. D. Latshaw, "The Toxic Level of Sodium Selenite in the Diet of Laying Chickens," *Journal of Nutrition*, 108:1114, 1978.

7. Goehring, T. B. et al., "Effects of Seleniferous Grains and Inorganic Selenium on Tissue and Blood Composition and Growth Performance of Rats and Swine," *Journal of Animal Science*, 59:725, 1984.

8. Pennington, J. A. T. and B. Young, "Iron, Zinc, Copper, Manganese, Selenium, and Iodine in Foods from the United States Total Diet Study," *Journal of Food Composition and Analysis*, 3:186, 1990.

9. Pennington, J. A. T., B. E. Young, and D. B. Wilson, "Nutritional Elements in U.S. Diets: Results from the Total Diet Study, 1982 to 1988," *Journal of the American Dietetic Association*, 89:859, 1989.

10. Pennington, J. A. T. and B. Young, "Total Diet Study Nutritional Elements, 1982-1989," *Journal of the American Dietetic Association*, 91:179, 1991.

11. Jaquess, P. A. and C. G. Hollis, "The Effects of Selenium on the Metabolism of *Salmonella typhimurium*," *Developments in Industrial Microbiology*, 21:393, 1980.

12. Greenfield, J. and C. H. Bigland, "Selective Inhibition of Certain Enteric Bacteria by Selenite Media Incubated at 35 and 43 Degrees," *Canadian Journal of Microbiology*, 16:1287, 1970.

13. Banwert, G. J. and J. C. Ayers, "Effect of Various Enrichment Broths and Selective Agars upon the Growth of Several Species of *Salmonella*," *Applied Microbiology*, 12:296, 1953.

14. Kilness, A. W., "Selenium, Bacteria, and the Immune System," presented at Selenium IV Symposium, University of California, Berkeley, March 21, 1987.

15. "Meat and Poultry Inspection: The Scientific Basis of the Nation's Program," National Academy Press, 1985.

16. CVM, FDA, "Request for Concurrence on Class I Recall Classification," December 22, 1982.

17. Casteel, S. W. et al., "Selenium Toxicosis in Swine," *Journal of the American Veterinary Medical Association*, 188:1084, 1985.

18. Harrison, L. H. et al., "Paralysis in Swine Due to Focal Symmetrical Poliomyelomalacia: Possible Selenium Toxicosis," *Veterinary Pathology*, 20:265, 1983.

19. Wilson, T. M. et al., "Selenium Toxicity and Porcine Focal Symmetrical Poliomyelomalacia: Description of a Field Outbreak and Experimental Reproduction," *Canadian Journal Comparative Medicine*, 47:412, 1983.

20. Eisenberg, D. A., Micro Tracers, Inc., Economic Evaluation of Misformulating a Selenium Premix to FDA Docket No. 86F090060, (Sup. 2) August 21, 1987.

21. Eisenberg, D. A., Micro Tracers, Inc., Future Direction of Manufacture of Selenium Premixes to FDA Docket No. 86F090060, (Sup.2) August 21, 1987.

22. Maxfield, A. F., The American Council of Independent Laboratories, Obj. 1 to FDA Docket No. 86F090060, April 29, 1987.

23. Smith, G. J., letter to D. A. Eisenberg, January 5, 1987.

24. Price, W. D., Deputy Director, Division of Animal Feeds, CVM, memorandum, April 29, 1986.

25. Klinger, C. W., Central Soya, Obj. 3 to FDA Docket No. 86F090060, May 4, 1987.

26. Pratt, W., The National Mixer-Feeder Association, Obj. 6 to FDA Docket No. 86F090060, May 6, 1987.

27. Meyerholz, G. W., "Causes of Sulfa Residues in Swine," unpublished, July 1, 1988.

28. Deyoe, C. W., "Products Control," *Feed Manufacturing Technology*, vol. and date not available.

29. McElhiney, R. R., "The Case Against Premixing," *Feed Management*, 35:32, 1984.

30. Eisenberg, S., "Microingredient Carryover," *Feedstuffs*, 48:82, 1976.

31. McElhiney, R. R., "Dilution in a Premix," *Feed Management*, 34:29, 1983.

32. Chorover, N. J., The National Resources Defense Council letter to William D. Price, Division of Animal Feeds, CVM, FDA, April 24, 1987.

IV. Summary and Conclusions

Based on a comprehensive evaluation of all relevant evidence other than that relating to claimed actual and potential adverse environmental effects, the agency has concluded that the use of selenium in animal foods under the conditions set forth in the April 6, 1987, final rule amending the selenium food additive regulation, as corrected June 4, 1987, is safe. The objections and comments to the 1987 amendments relating to human and animal safety, manufacturing controls, economic harm, and the procedures by which the agency published the final rule do not justify a stay or a hearing. FDA is deferring a decision on whether to grant a stay of or a hearing on the 1987 amendments based on claimed actual and potential adverse environmental effects pending a legislative-type hearing on those claimed effects. That hearing will be held on August 25 and 26, 1992, as announced in a notice of hearing published in the *Federal Register* of June 26, 1992 (57 FR 28606).

Dated: July 20, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-17573 Filed 7-24-92; 8:45 am]

BILLING CODE 4160-01-F

**Monday
July 27, 1992**

Part IV

**Department of
Housing and Urban
Development**

Office of the Secretary

**24 CFR Part 44, et al.
Implementation of OMB Circular A-133
"Audits of Institutions of Higher
Education and Other Nonprofit
Institutions; Rule**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 44, 45, 85, 207, 213, 221, 232, 236, 242, 277, 280, 570, 575, 576, 577, 578, 579, 880, 881, 883, 884, 885, and 886

[Docket No. R-92-1581; FR-2594-I-02]

RIN 2501-AB19

Implementation of OMB Circular A-133 "Audits of Institutions of Higher Education and Other Nonprofit Institutions"

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: OMB Circular A-133 provides policy guidance to Federal agencies for establishing uniform requirements for audits of awards provided to institutions of higher education and other nonprofit organizations. Through this rule, HUD incorporates the provisions of the circular.

DATES: Effective Date: August 26, 1992.

Comment Due Date: September 25, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Comments should refer to the above docket number and title. An original and four copies of comments should be submitted. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Abbenante, Deputy Chief Financial Officer for Operations, room 10184, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-3532. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: OMB Circular A-133 establishes audit requirements and defines Federal responsibilities for implementing and monitoring such requirements for institutions of higher education and other nonprofit institutions receiving Federal awards. It supersedes Attachment F, subparagraph 2h, of Circular A-110, "Uniform Administrative Requirements for Grants and other Agreements with Institutions

of Higher Education, Hospitals, and Other Nonprofit Organizations."

The provisions of Circular A-133 apply to:

a. Federal departments and agencies responsible for administering programs that involve grants, cost-type contracts and other agreements with institutions of higher education and other nonprofit recipients.

b. Institutions of Higher Education and Other Nonprofit Institutions whether they are recipients receiving awards directly from Federal agencies, or are subrecipients receiving awards indirectly through other recipients.

This rule adopts the provisions of Circular A-133 by adding to title 24 of the Code of Federal Regulations, a new part 45—Non-Federal Audit Requirements for Institutions of Higher Education and Other Nonprofit Institutions. Part 45 incorporates the requirements set forth in Circular A-133.

This rule also makes numerous technical changes throughout the parts of title 24 in order to make the cross-referencing and conforming changes necessary for implementation of Circular A-133. Included in these technical changes are a number of changes needed as a result of the definition of "Federal financial assistance," as set forth in the circular. That definition now covers loans, loan guarantees, and insurance. Therefore, programs that make, guarantee, or insure loans to nonprofit mortgagors have been brought within the coverage of Circular A-133, as it is implemented at part 45.

However, for HUD programs whose regulations are set forth in 24 CFR parts 207, 213, 221, 232, 236, 242, 277, 880, 881, 883, 884, 885, and 886, a nonprofit institution is the nonprofit corporation which owns the individual property receiving the HUD assistance. Each project under the parts 200 series and many projects under the parts 800 series are required to complete project-specific audits because they are deemed to be separate entities. The audits currently conducted under applicable HUD Audit guides for these programs will serve as the organization-wide audits required by OMB Circular A-133 and this part. In performing the compliance review required by paragraph 13.c. of OMB Circular A-133, auditors should consider the compliance requirements set forth in the OMB Compliance Supplement. In accordance with the regulatory agreement incident to the insured mortgage, where HUD provides federal funding, the audit reports pertaining to nonprofit organizations subject to these regulations are to be submitted within

60 days after the end of the fiscal year audited.

The substitution of Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions, for Circular A-110, Attachment F, subparagraph 2h (which covered grants to universities, hospitals, and other nonprofit organizations) leaves open the issue of coverage of hospitals. The explanation for this omission, advanced by OMB, is that most hospitals receive reimbursement from the federally funded Medicaid and Medicare programs, each of which has its own statutory audit requirements. Albeit hospitals which are affiliated with universities are covered by Circular A-133 by reason of that affiliation and non-university affiliated hospitals, which receive federal funds pursuant to research contracts, are subject to contract closing audits, there still remains the question of coverage of non-university affiliated hospitals that may be receiving HUD assistance. Therefore, the coverage of hospitals under Circular A-110, Attachment F, subparagraph 2h, is continued under Circular A-133 for non-university affiliated hospitals that receive HUD assistance.

The Department has determined that notice and public procedures are impracticable and, therefore, is publishing this rule as an interim rule. The rule repeats the substantive audit requirements of Circular A-133, and because the OMB Circular was published for comment in the *Federal Register* (November 10, 1988, 53 FR 45744) before being made effective, there is ample justification for making this rule effective without an additional comment period. There does exist, however, the possibility that public interest might be expressed with reference to the programs of the Department of Housing and Urban Development to which the rule is being made applicable. For that reason, the Department is inviting public comment for a period of sixty days, and will take these comments into account in promulgating a final rule.

Other Matters

Environmental Determination

The content of this rule does not constitute a development, nor affect the physical condition of project areas or building sites, but relates only to auditing and fiscal functions. Thus, the authorities and standards of § 50.4 of 24 CFR Part 50 (the regulations implementing Section 102(2)(C) of the National Environmental Policy Act of

1969) are inapplicable to this rule; therefore, it is categorically excluded from the NEPA requirements pursuant to 50.20(k).

Regulatory Impact Analysis

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued on February 17, 1981. An analysis of the rule indicates that it will not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because the rule does not impose additional audit requirements, but merely makes uniform the procedures that will be followed.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, Federalism, has determined that this rule does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being.

Semiannual Agenda of Regulations

This rule was listed as item 1115 in the Department's Semiannual Agenda of Regulations published on April 27, 1992 (57 FR 16804), in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 44

Accounting, Grant programs, Grant programs—housing and community development, Intergovernmental relations, Loan programs—housing and

community development, Reporting and record keeping requirements.

24 CFR Part 45

Audit requirements-nonprofits, universities; Reporting and record keeping requirements.

24 CFR Part 85

Accounting, Grant programs, Intergovernmental relations, Reporting and record keeping requirements.

24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and record keeping requirements, Solar energy.

24 CFR Part 213

Cooperatives, Mortgage insurance, Reporting and record keeping requirements.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and record keeping requirements.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and record keeping requirements.

24 CFR Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and record keeping requirements.

24 CFR Part 242

Hospitals, Mortgage insurance, Reporting and record keeping requirements.

24 CFR Part 277

Aged, Handicapped, Loan programs—housing and community development, Low and moderate income housing.

24 CFR Part 280

Community development, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and record keeping requirements.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—housing and community development, Grant programs—education, Guam, Lead poisoning, Loan programs—housing and

community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and record keeping requirements, Virgin Islands, Student aid.

24 CFR Part 575

Civil rights, Community facilities, Grant programs—housing and community development, Grant programs—social programs, Homeless, Reporting and record keeping requirements.

24 CFR Part 576

Community facilities, Grant programs—housing and community development, Emergency shelter grants, Homeless, Reporting and record keeping requirements.

24 CFR Part 577

Grant programs—housing and community development, Homeless, Community facilities, Employment, Grant programs—social programs, Handicapped, Mental health programs, Nonprofit organizations, Reporting and record keeping.

24 CFR Part 578

Community facilities, Grant programs—housing and community development, Grant programs—social programs, Handicapped, Homeless, Reporting and record keeping requirements, Mental health programs, Nonprofit organizations, Technical assistance.

24 CFR Part 579

Grant programs—housing and community development, Homeless, Reporting and record keeping requirements, Community facilities, Grant programs—social programs.

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and record keeping requirements.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Reporting and record keeping requirements.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, Reporting and record keeping requirements.

24 CFR Part 884

Grant programs—housing and community development, Rent

subsidies, Reporting and record keeping requirements, Rural areas.

24 CFR Part 886

Aged, Handicapped, Loan programs—housing and community development, Low and moderate income housing, Reporting and record keeping requirements.

24 CFR Part 886

Grant programs—housing and community development, Lead poisoning, Rent subsidies, Reporting and record keeping requirements.

Accordingly, title 24 of the Code of Federal Regulations is amended as follows:

PART 44—NON-FEDERAL GOVERNMENTAL AUDIT REQUIREMENTS

1. The authority for Part 44 is revised to read as follows:

Authority: 31 U.S.C. 7501-7507; 42 U.S.C. 3535(d).

2. The title for Part 44 is renamed "Non-Federal Audit Requirements for State and Local Government."

§ 44.3 [Amended]

3. Paragraph (c) of § 44.3 is revised to remove the reference to "Circular A-110, Uniform requirements for grants to universities, hospitals, and other nonprofit organizations" and to add instead "Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions, as set forth in 24 CFR part 45."

4. Paragraph (a) § 44.6 is revised to read as follows:

§ 44.6 Subrecipients.

* * * *

(a) Determine whether State or local subrecipients have met the audit requirements of this part and whether subrecipients covered by OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions," have met those requirements, as set forth in 24 CFR part 45.

* * * *

§ 44.6 [Amended]

5. Paragraph (b) of § 44.6 is amended to remove the reference to "Circular A-110" and to add instead "Circular A-133 (as set forth in 24 CFR part 45)".

6. A new part 45 is added to title 24 of the Code of Federal Regulations to read as follows:

PART 45—NON-FEDERAL AUDIT REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT INSTITUTIONS

Sec.

- 45.1 Purpose.
- 45.2 Scope of audit.
- 45.3 Frequency of audit.
- 45.4 Submission of reports.
- 45.5 Audit costs.

Authority: 42 U.S.C. 3535(d).

§ 45.1 Purpose.

(a) This part implements the audit requirements for recipient organizations in OMB Circular A-133 "Audits of Institutions of Higher Education and Other Nonprofit Institutions." OMB Circular A-133 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; and Executive Order No. 11541. OMB Circular A-133 supersedes Attachment F, subparagraph 2h, of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Institutions." This part incorporates the requirements set forth in OMB Circular A-133.

(b) Nonprofit institutions (except for those participating in the HUD programs listed in paragraph (c) of this section), as defined in OMB Circular A-133, (including hospitals that are not affiliated with an institution of higher education) that receive financial assistance from HUD directly or as subrecipients, or have an outstanding HUD direct, guaranteed or insured loan balance are required to have audits conducted in accordance with the following requirements:

(1) Nonprofit institutions that have combined receipts of Federal financial assistance and outstanding Federal direct, guaranteed or insured loan balances totalling \$100,000 or more a year shall have an audit conducted in accordance with the requirements of OMB Circular A-133. However, nonprofit institutions meeting the above criteria but participating in only one Federal financial assistance program have the option of having an audit of their institution made in accordance with the provisions of OMB Circular A-133 or a program-specific financial audit. Such program-specific financial audits shall be performed in accordance with the Government Auditing Standards covering financial audits issued by the Comptroller General of the United States. In addition, the program-specific audit shall be performed in accordance with any applicable HUD audit guide. If

the program does not have an applicable HUD audit guide, the audit shall include the compliance tests described in any applicable OMB Compliance Supplement for the specific program involved. If the program is not covered by an applicable HUD audit guide or OMB Compliance Supplement, the auditor shall design appropriate compliance tests in accordance with Government Auditing Standards.

(2) Nonprofit institutions that have combined receipts of Federal financial assistance and outstanding Federal direct, guaranteed or insured loan balances totalling between \$25,000 and \$100,000 a year shall have an audit conducted in accordance with the requirements of OMB Circular A-133, or a program-specific financial audit. Such program specific financial audits shall be performed in accordance with the Government Auditing Standards covering financial audits issued by the Comptroller General of the United States. In addition, the program-specific audits shall be performed in accordance with any applicable HUD audit guides. For those programs that do not have an applicable HUD audit guide, the audits shall include the compliance tests described in any applicable OMB Compliance Supplement for each of the programs involved. For those programs not covered by an applicable HUD audit guide or OMB Compliance Supplement, the auditor shall design appropriate compliance tests in accordance with Government Auditing Standards.

(3) Nonprofit institutions that have combined receipts of Federal financial assistance and outstanding Federal direct, guaranteed or insured loan balances totalling less than \$25,000 shall be exempt from Federal audit requirements, but records must be available for review by appropriate officials of HUD or the subgranting entity.

(4) Nonprofit institutions having only outstanding HUD direct, guaranteed or insured loans that were made, guaranteed or insured prior to the effective date of this part, are required to conduct audits in accordance with HUD program-specific audit requirements. Such program specific financial audits shall be performed in accordance with the Government Auditing Standards covering financial audits issued by the Comptroller General of the United States. In addition, the program-specific audits shall be performed in accordance with any applicable HUD audit guides. For those programs that do not have an applicable HUD audit guide, the audits shall include the compliance tests

described in any applicable OMB Compliance Supplement for each of the programs involved. For those programs not covered by an applicable HUD audit guide or OMB Compliance Supplement, the auditor shall design appropriate compliance tests in accordance with Government Auditing Standards.

(c) For HUD programs whose regulations are set forth in 24 CFR parts 207, 213, 221, 232, 236, 242, 277, 880, 881, 883, 884, 885, and 886, a nonprofit institution is the nonprofit corporation which owns the individual property receiving the HUD assistance. Each project under the Parts 200 series and many projects under the Parts 800 series are required to complete project-specific audits because they are deemed to be separate entities. The audits currently conducted under applicable HUD audit guides for these programs will serve in full satisfaction of the organization-wide audit requirements of OMB Circular A-133 and this part. In performing the compliance review required by paragraph 13.c. of OMB Circular A-133, auditors should consider the compliance requirements set forth in the HUD audit guides applicable to these programs, in addition to the OMB Compliance Supplement. In accordance with the regulatory agreement incident to the insured mortgage, the audit reports pertaining to nonprofit organizations subject to these regulations are to be submitted within 60 days after the end of the fiscal year audited.

(d) The requirements of this part are applicable to nonprofit institutions with respect to any fiscal year that begins on or after January 1, 1990.

§ 45.2 Scope of audit.

The audit shall be made by an independent auditor, as defined in OMB Circular A-133, in accordance with Government Auditing Standards covering financial audits issued by the Comptroller General of the United States and the requirements of OMB Circular A-133.

§ 45.3 Frequency of audit.

Audits shall be made annually unless the specific audit requirements for all of the programs involved permit a lesser frequency in which case the audit shall be made every two years.

§ 45.4 Submission of reports.

Except for the organizations subject to the requirements set forth in § 45.1(c), the report shall be due within 30 days after the completion of the audit, but the audit should be completed and the report submitted not later than 13 months after the end of the recipient's fiscal year unless a longer period is

agreed to with the cognizant or oversight agency.

§ 45.5 Audit costs.

The cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provisions of Circular A-21, "Cost Principles for Universities" or Circular A-122, "Cost Principles for Nonprofit Organizations," FAR subpart 31, or other applicable cost principles or regulations.

PART 85—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS

7. The authority for part 85 is revised to read as follows:

Authority: 42 U.S.C. 3535(d).

§ 85.26 [Amended]

8. Paragraph (b)(1) of § 85.26 is amended to remove the reference to "Circular A-110, Uniform requirements for grants to universities, hospitals, and other nonprofit organizations" and to add instead "Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions".

9. Paragraph (b)(2) of § 85.26 is amended to remove the reference to "Circular A-110" and to add instead "Circular A-133 (as set forth in 24 CFR part 45)."

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

10. The authority for part 207 is revised to read as follows:

Authority: 12 U.S.C. 17012-11(e), 1713, 1715b; 42 U.S.C. 3535(d).

11. A new paragraph (f)(6) is added to § 207.19 to read as follows:

§ 207.19 Required supervision of private mortgagors.

(f) *Methods of operation.*

(6) Nonprofit organizations that receive mortgage insurance as mortgagors under this part shall conduct audits in accordance with HUD audit requirements at 24 CFR part 45.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

12. The authority for part 213 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715e; 42 U.S.C. 3535(d).

13. Section 213.30 is amended by redesignating the existing paragraph (h) as paragraph "(i)" and adding a new paragraph (h) to read as follows:

§ 213.30 Methods of operation.

(h) Nonprofit organizations that receive mortgage insurance as mortgagors under this part shall conduct audits in accordance with HUD audit requirements at 24 CFR part 45.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

14. The authority for part 221 is revised to read as follows:

Authority: 12 U.S.C. 1701(a), 1715b, 1715i; 42 U.S.C. 3535(d).

15. A new paragraph (f) is added to § 221.530 to read as follows:

§ 221.530 Supervision applicable to all mortgagors.

(f) Nonprofits receiving assistance under this part shall comply with the audit requirements in 24 CFR part 45.

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES

16. The authority for part 232 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715w, 1715z(9); 42 U.S.C. 3535(d).

17. A new paragraph (c) is added to § 232.45 to read as follows:

§ 232.45 Supervision by Commissioner.

(c) Nonprofit organizations that receive mortgage insurance as mortgagors under this part shall conduct audits in accordance with HUD audit requirements at 24 CFR part 45.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

18. The authority for part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715z-1; 42 U.S.C. 3535(d).

19. Subpart E is revised to read as follows:

Subpart E—Audits

§ 236.901 Audit.

(a) Where a State or local government receives interest reduction payments under section 236(b) of the National Housing Act, it shall conduct audits in accordance with HUD audit requirements at 24 CFR part 44.

(b) Where a nonprofit mortgagor receives interest reduction payments under section 236(b) of the National Housing Act, it shall conduct audits in accordance with HUD audit requirements at 24 CFR part 45.

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

20. The authority for part 242 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715n(f), 1715z-7; 42 U.S.C. 3535(d).

21. Section 242.79 is amended to designate the existing paragraph as paragraph "a" and to add a new paragraph b to read as follows:

§ 242.79 Supervision of mortgagor—books and accounts.

(b) Nonprofit organizations that receive mortgage insurance as mortgagors under this part shall conduct audits in accordance with HUD audit requirements at 24 CFR part 45.

PART 277—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

22. The authority for part 277 continues to read as follows:

Authority: Sec. 102, 73 Stat. 667; 12 U.S.C. 1701q.

23. A new § 277.12 is added to part 277 to read as follows:

§ 277.12 Audit requirements.

Nonprofit organizations that receive loans under this part shall conduct audits in accordance with HUD audit requirements at 24 CFR part 45.

PART 280—NEHEMIAH HOUSING OPPORTUNITY GRANTS PROGRAM

24. The authority for part 280 is revised to read as follows:

Authority: 12 U.S.C. 1715l note; 42 U.S.C. 3535(d).

§ 280.207 [Amended]

25. Paragraph (h) of § 280.207 is amended to remove the reference to "OMB Circular A-110" and to add

instead "OMB Circular A-133 (as set forth in 24 CFR part 45)."

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

26. The authority for part 570 continues to read as follows:

Authority: 42 U.S.C. 5301-5320; 42 U.S.C. 3535(d).

27. Paragraph (b) introductory text and (b)(4) of § 570.502 are revised to read as follows:

§ 570.502 Applicability of uniform administrative requirements.

(b) Subrecipients, except subrecipients that are governmental entities, shall comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations," or OMB Circular No. A-21, "Cost Principles for Educational Institutions," as applicable, and OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions" (as set forth in 24 CFR part 45). Audits shall be conducted annually. Such subrecipients shall also comply with the following attachments to OMB Circular No. A-110:

(4) Attachment F, "Standards for Financial Management Systems," except for paragraph 2(h) which is superseded by OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions;"

28. Section 570.610 is amended to add "A-133 (implemented at 24 CFR part 45)," behind the reference to A-122.

PART 575—EMERGENCY SHELTER GRANTS PROGRAM: HOMELESS HOUSING ACT OF 1986

29. The authority for part 575 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 11376.

§ 575.59 [Amended]

30. Paragraph (h) of § 575.59 is amended to remove the reference to "OMB Circular A-110" and to add instead "OMB Circular A-133, as set forth at 24 CFR part 45."

PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

31. The authority for part 576 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 11376.

§ 576.79 [Amended]

32. Paragraph (i) of § 576.79 is amended to remove the reference to "OMB Circular A-110" and to add instead "OMB Circular A-133, as set forth in 24 CFR part 45."

PART 577—TRANSITIONAL HOUSING

33. The authority for part 577 is revised to read as follows:

Authority: 42 U.S.C. 3535(d); 11386.

§ 577.335 [Amended]

34. Paragraph (g) of § 577.335 is amended to remove the reference to "OMB Circular A-110" and to add instead "OMB Circular A-133, as set forth in 24 CFR part 45."

PART 578—PERMANENT HOUSING FOR HANDICAPPED HOMELESS PERSONS

35. The authority for part 578 is revised to read as follows:

Authority: 42 U.S.C. 3535(d); 11386.

§ 578.335 [Amended]

36. Paragraph (g) of § 578.335 is amended to remove the reference to "OMB Circular A-110" and to add instead "OMB Circular A-133, as set forth in 24 CFR part 45."

PART 579—SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

37. The authority for part 579 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 11301 note.

38. Paragraph (g) of § 579.325 is amended to remove the reference to "OMB Circular A-133, as set forth in 24 CFR part 45."

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

39. The authority for part 880 is revised to read as follows:

42 U.S.C. 1437a, 1437c, and 1437f, 3535(d).

40. The existing paragraph in § 880.211 is redesignated paragraph (a), and a new paragraph (b) is added to read as follows:

§ 880.211 Audit.

(b) Where a nonprofit organization is the eligible owner of a project, receiving financial assistance under this part, the audit requirements in 24 CFR part 45 shall apply.

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS FOR SUBSTANTIAL REHABILITATION

41. The authority for part 881 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, and 1437f, 3535(d).

42. The existing paragraph in § 881.211 is redesignated paragraph (a), and a new paragraph (b) is added to read as follows:

§ 881.211 Audit.

* * * * *

(b) Where a nonprofit organization is the eligible owner of a project, financial assistance under this part, the audit requirements in 24 CFR part 45 shall apply.

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

43. The authority for part 883 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, and 1437f, 3535(d).

44. The existing paragraph in § 883.313 is redesignated paragraph (a), and a new paragraph (b) is added to read as follows:

§ 883.313 Audit.

* * * * *

(b) Where a nonprofit organization is the eligible owner of a project receiving financial assistance under this part, the

audit requirements in 24 CFR part 45 shall apply.

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

45. The authority for part 884 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, and 1437f, 3535(d).

46. The existing paragraph in § 884.124 is redesignated paragraph (a), and a new paragraph (b) is added to read as follows:

§ 884.124 Audit.

* * * * *

(b) Where a nonprofit organization is the eligible owner of a project, receiving financial assistance under this part, the audit requirements in 24 CFR part 45 shall apply.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

47. The authority for part 885 is revised to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d).

48. Part 885 is amended to add a new § 885.10 to read as follows:

§ 885.10 Audit requirements.

Nonprofits receiving assistance under this part are subject to the audit requirements in 24 CFR part 45.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

49. The authority for part 886 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, and 1437f, 3535(d).

50. The existing paragraph in § 886.131 is redesignated paragraph (a), and a new paragraph (b) is added to read as follows:

§ 886.131 Audit.

* * * * *

(b) Where a nonprofit organization is the eligible owner of a project, receiving financial assistance under this part, the audit requirements of 24 CFR part 45 shall apply.

51. The existing paragraph in § 886.336 is redesignated paragraph (a), and a new paragraph (b) is added to read as follows:

§ 886.336 Audit.

* * * * *

(b) Where a nonprofit organization is the eligible owner of a project receiving financial assistance under this part, the audit requirements in 24 CFR part 45 shall apply.

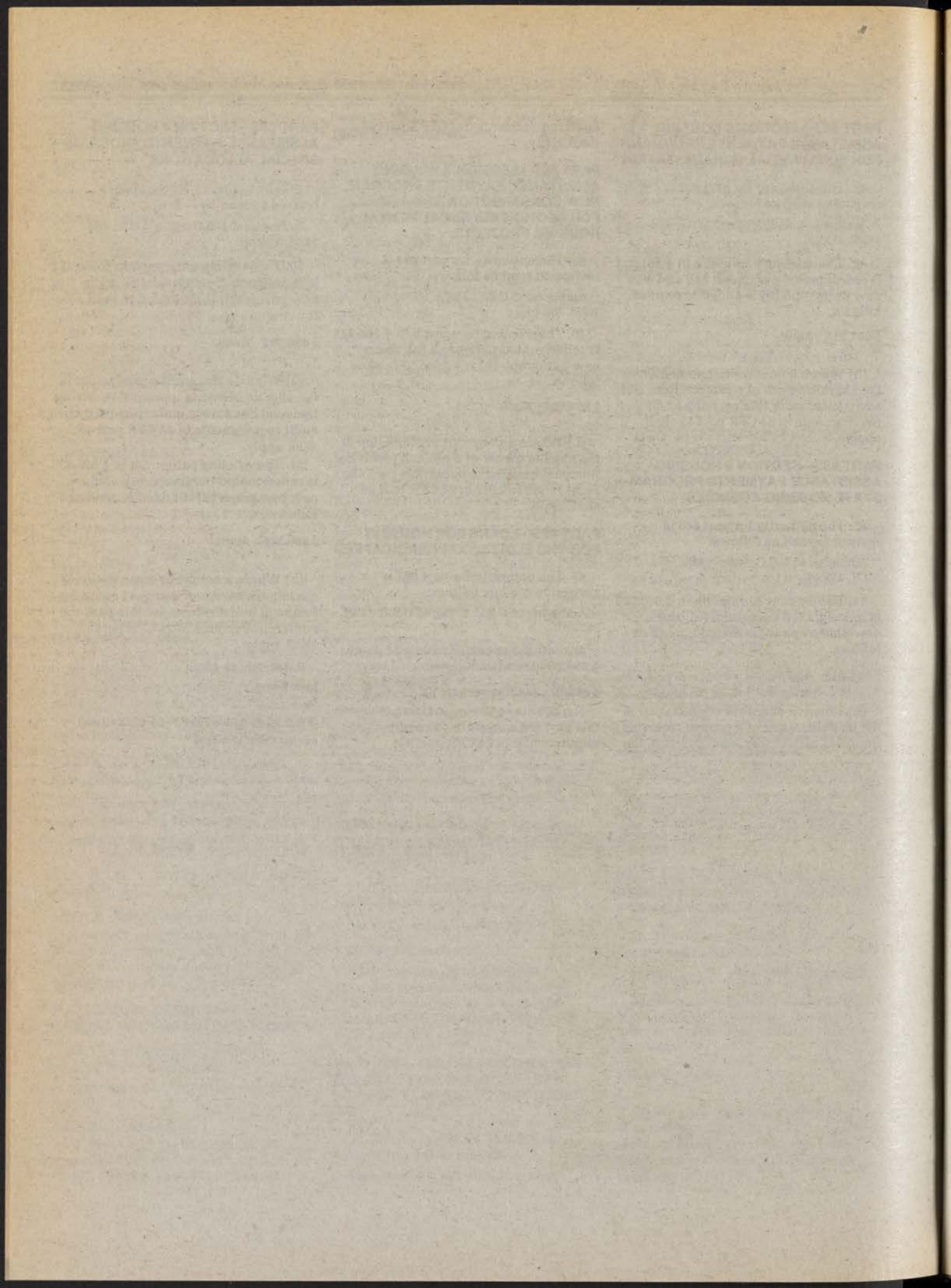
Dated: July 13, 1992.

Jack Kemp,

Secretary.

[FR Doc. 92-17506 Filed 7-24-92; 8:45 am]

BILLING CODE 4210-32-M



Federal Register

**Monday
July 27, 1992**

Part V

Department of Transportation

Coast Guard

**33 CFR Parts 95 and 151
Revised Penalty Provisions; Final Rule**

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Parts 95 and 151**

[CGD 92-007]

RIN 2115-AE23

Revised Penalty Provisions**AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Oil Pollution Act of 1990 (OPA 90) revised the statutory penalty provisions for operating a vessel while intoxicated; for violating the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 (MARPOL 73/78); and for violating certain other statutory and regulatory provisions for the prevention of pollution from ships. Parallel citations contained in Federal regulations are being updated to reflect the statutory changes. The revisions are intended to correct the text of the regulations by restating statutorily prescribed penalties.

EFFECTIVE DATES: July 27, 1992.**FOR FURTHER INFORMATION CONTACT:**

Charles T. Vekert, Project Manager, OPA 90 Staff (G-MS-1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001; (202) 267-6220.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal person involved in drafting this document is Charles T. Vekert, Project Manager.

Regulatory History

There have been no prior publications in the *Federal Register* in connection with this rulemaking.

Background and Purpose

On August 18, 1990, section 4302 of Public Law 101-380, the Oil Pollution Act of 1990 (OPA 90), amended the penalty provisions contained in a number of pollution prevention and marine safety laws. This OPA 90 section revised nine penalty provisions contained in title 46 and five penalty provisions contained in title 33 of the United States Code. Of these 14 revised penalty provisions, two currently have restated, parallel provisions contained in the implementing Federal regulations. These two regulations need to be changed to be consistent with the new penalties enacted by Congress in OPA 90.

The purpose of this rulemaking is to revise the two Federal regulation provisions to reflect the statutory changes made by section 4302 of OPA 90.

Discussion of Amendments**1. Section 95.055 Penalties**

Subtitle II of title 46 of the United States Code contains the codified law pertaining to vessels and seamen. 46 U.S.C. 2302(c), prohibits operation of a vessel while under the influence of alcohol or a dangerous drug, as determined under standards prescribed by regulation. The penalty provision of the implementing regulations, 33 CFR 95.055, currently provides that an individual who is intoxicated when operating a vessel in violation of 46 U.S.C. 2302(c) is liable for either a civil penalty or a criminal penalty of a fine of not more than \$5,000, imprisonment for not more than one year, or both. OPA 90 made no change in the civil penalty provision, but altered the criminal penalty provision so that a person violating the statute "commits a class A misdemeanor."

A class A misdemeanor is punishable by imprisonment up to one year (18 U.S.C. 3581(b)(6)) and a fine of not more than \$100,000 (18 U.S.C. 3571(b)(5)) or, if death results, \$250,000 (18 U.S.C. 3571(b)(4)). For this reason, § 95.055 is being revised by this rulemaking to update the language in accordance with the OPA 90 amendment and also to refer the reader to 18 U.S.C. 3551 *et seq.* for further guidance. The entire section is reworded so as to better accommodate the amendatory language.

Because the penalty provisions prescribed by statute provide the legal basis for enforcement of the statutory and regulatory provisions prohibiting the operation of a vessel while intoxicated, the Coast Guard considered deleting § 95.055 altogether to avoid periodic updating in the future due to statutory changes in penalties for violation of 46 U.S.C. 2302(c). However, the Coast Guard determined that restatement of the penalty provisions prescribed by statute will provide additional useful information to the public.

2. Section 151.04(c) Penalties for Violation

The Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et seq.*) was originally enacted in 1980 to implement MARPOL 73/78. The general provisions for the implementation of MARPOL 73/78 are contained in 33 CFR part 151. In subpart A, certain statutory penalties for various types of violations, both civil

and criminal, are restated. As noted above, recent amendments by OPA 90 have rendered the penalty provision contained in § 151.04(c) inconsistent with the law.

Section 151.04(c) is being revised to correctly reflect the statutory provision as amended by OPA 90 in August 1990. OPA 90 removed the direct reference to a specific criminal imprisonment term and fines for violation of 33 U.S.C. 1908(a), and replaced it with a new provision that provides that a person who knowingly violates MARPOL 73/78 "commits a class D felony."

A class D felony is punishable by imprisonment of not more than 6 years (18 U.S.C. 3581(b)(4)) and a fine of not more than \$250,000 for an individual (18 U.S.C. 3571(b)(3)) or not more than \$500,000 for an organization (18 U.S.C. 3571(c)(3)). For this reason, § 151.04(c) is being revised by this rulemaking to update the language in keeping with the OPA 90 amendment and also to refer the reader to 18 U.S.C. 3551 *et seq.* for further guidance. Additional language contained in the statute, regarding a monetary reward for providing information leading to a conviction, has also been restated in paragraph (c) to complete the regulatory restatement and give notice to the public.

Because the penalty provisions prescribed by statute provide the legal basis for enforcement of the Act to Prevent Pollution from Ships (1980) and consequently, the enforcement of MARPOL 73/78 (rather than the Federal regulation), the Coast Guard considered deleting the penalty restatement in § 151.04(c) altogether, to avoid periodic updating in the future due to statutory changes. However, § 151.04 also contains restatements of penalties for other provisions of 33 U.S.C. 1908 not affected by OPA 90. The deletion of only paragraph (c) may mislead or confuse the reader, as might a deletion of the entire § 151.04.

3. Notice Under Administrative Procedures Act

Both of these regulatory changes are effective upon publication. There has been no notice of proposed rulemaking with a comment period, nor will there be a 30-day period between publication and the effective date. Both of these are usually required by the Administrative Procedures Act (APA). However, the APA makes an exception where good cause can be shown (5 U.S.C. 553 (b) and (d)(3)).

This rulemaking is a technical amendment to existing regulations. No rights are affected by these revisions because the statute (OPA 90) itself

provides the bases and effective date of August 18, 1990, for the increased penalties. For this reason, the Coast Guard finds that neither a notice of proposed rulemaking with a comment period nor a delayed effective date are necessary.

Regulatory Evaluation

This rulemaking is not major under Executive Order 12291 and not significant under the Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

The Coast Guard expects the economic impact of this rulemaking to be so minimal that a Regulatory Evaluation is unnecessary. This rulemaking merely updates penalty provisions currently contained in federal regulations, restating statutorily prescribed penalties for the convenience of the user of the Code of Federal Regulations. These restatements are, in and of themselves, without legal effect.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking was required. This rule did not require a general notice of proposed rulemaking and is, therefore, exempt from the regulatory flexibility requirements. Although exempt, the Coast Guard has reviewed this rule for potential impact on small entities.

This rule only makes a technical amendment so that the correct penalties are restated in the regulations. Therefore, the Coast Guard's position is that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rulemaking contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3551 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule will not individually or cumulatively have a significant effect on the human environment. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects

33 CFR Part 95

Alcohol abuse, Drug abuse, Marine safety, Penalties.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 95 and 151 as follows:

PART 95—OPERATING A VESSEL WHILE INTOXICATED

1. The authority citation for part 95 continues to read as follows:

Authority: 46 U.S.C. 2302, 3306, and 7701; 49 CFR 1.46.

2. Section 95.055 is revised to read as follows:

§ 95.055 Penalties.

An individual who is intoxicated when operating a vessel in violation of 46 U.S.C. 2302(c)—

(a) Is liable to the United States Government for a civil penalty of not more than \$1,000; or

(b) Commits a class A misdemeanor, as described in 18 U.S.C. 3551 *et seq.*

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE AND MUNICIPAL OR COMMERCIAL WASTE

3. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321(j) (1) (C) and 1903(b); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

4. In § 151.04, paragraph (c) is revised to read as follows:

§ 151.04 Penalties for violation.

* * *

(c) A person who knowingly violates MARPOL 73/78, the Act, or the regulations of this subpart commits a class D felony, as described in 18 U.S.C. 3551 *et seq.* In the discretion of the Court, an amount equal to not more than one-half of the fine may be paid to the person giving information leading to conviction.

* * *

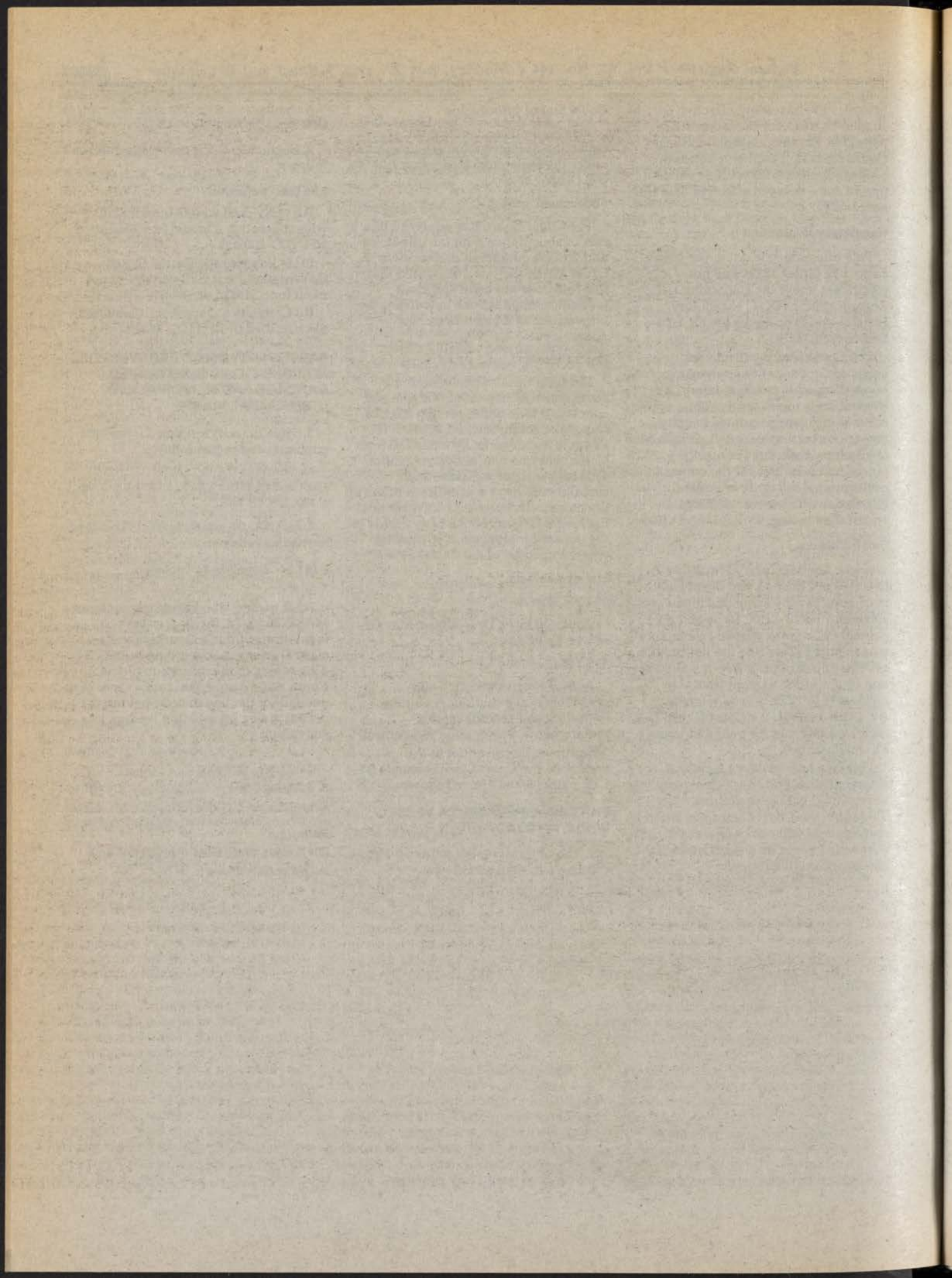
Dated: July 15, 1992.

A. E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-17648 Filed 7-24-92; 8:45 am]

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United States Federal Register

Monday
July 27, 1992

Part VI

Department of Transportation

Office of the Secretary

49 CFR Part 24

**Uniform Relocation Assistance and Real
Property Acquisition Regulation for
Federal and Federally Assisted Programs;
Rule**

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 24

RIN 2125 AC75

Uniform Relocation Assistance and Real Property Acquisition Regulation for Federal and Federally Assisted Programs

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule amends 49 CFR 24.103(d), which concerns the qualifications of appraisers who value property for Federal and federally assisted projects. The amendment provides that, if a detailed appraisal is necessary, and the agency employs a contract (fee) appraiser to perform the appraisal, such appraiser must be certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) Public Law 101-73, 103 Stat. 183, 511 (Aug. 9, 1989). Title XI of the FIRREA requires the establishment of State programs for the licensing and certification of appraisers performing appraisals for federally related transactions under the jurisdiction of Federal financial institution regulatory agencies. Using such certified appraisers for detailed appraisals of property subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), 42 U.S.C. 4601-4655, will strengthen the integrity of the appraisal process. This rule will apply to the real property acquisition activities of 18 Federal agencies including the Department of Transportation.

EFFECTIVE DATE: This regulation is effective on December 31, 1992, the effective date of Title XI of the FIRREA.

FOR FURTHER INFORMATION CONTACT: G.B. Saunders, Chief, Operations Division, Office of Right-of-Way, HRW-20, (202) 366-0142; or Reid Alsop, Office of the Chief Counsel, HCC-31, (202) 366-1371. The address is Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:**Background**

The FIRREA established requirements for State licensing and certification of appraisers for thrift institution appraisal work when there is a Federal financial interest in the transaction. The FIRREA is not by its terms directly applicable to

the acquisition of real property for Federal and federally assisted projects. Regulations implementing the Uniform Act contain appraisal criteria, in 49 CFR 24.103, that are applicable to such acquisitions.

An interagency group organized by the Office of Management and Budget (OMB) concluded that requiring the use of State certified appraisers, when detailed appraisals by contract (fee) appraisers are necessary for acquisitions for Federal and federally assisted projects, would ensure greater appraisal accuracy and consistency, and thereby enhance the appraisal process. A NPRM proposing that such a requirement be added to 49 CFR 24.103 was published on June 19, 1991, (56 FR 28302). The background of this amendment is discussed further in the preamble to the NPRM.

Cross References

Part 24 of title 49, CFR, is the government-wide regulation implementing the Uniform Act. The regulations of seventeen other Federal departments and agencies contain a cross reference to this part in their regulations, and this amendment of part 24 will be directly applicable to the real property acquisition activities for those departments and agencies. Those departments and agencies, and the parts of the Code of Federal Regulations which contain a cross reference to this part, are listed below:

Department of Agriculture, 7 CFR part 21
 Department of Commerce, 15 CFR part 11
 Department of Defense, 32 CFR part 2509
 Department of Education, 34 CFR part 15
 Department of Energy, 10 CFR part 1039
 Environmental Protection Agency, 40 CFR part 4
 Federal Emergency Management Agency, 44 CFR part 25
 General Services Administration, 41 CFR part 105-51
 Department of Health and Human Services, 45 CFR part 15
 Department of Housing and Urban Development, 24 CFR part 42
 Department of the Interior, 41 CFR part 114-50
 Department of Justice, 41 CFR part 28-18
 Department of Labor, 29 CFR part 12
 National Aeronautics and Space Administration, 14 CFR part 1208
 Pennsylvania Avenue Development Corporation, 36 CFR part 904
 Tennessee Valley Authority, 18 CFR part 1306
 Veterans Administration, 38 CFR part 25

Comments Received in Response to the NPRM

On June 19, 1991, (56 FR 28302) the FHWA published a NPRM to elicit comments on a proposal to amend 49 CFR part 24 to require that any agency using a contract (fee) appraiser to

prepare a detailed appraisal in connection with a Federal or federally assisted project pursuant to 49 CFR 24.103(a) must use an appraiser certified under State law in accordance with title XI of the FIRREA.

In response to the NPRM, the FHWA received a total of 24 comments representing 1 Federal agency, 16 State highway agencies, 1 professional association, and 6 individuals.

Five commenters were opposed to adoption of the proposed amendment to part 24. Two commented that the FIRREA applied only to thrift institution appraisal work and not to activity under the Uniform Act. This was acknowledged in the preamble to the NPRM, which also discussed the necessity and prudence of a limited application of the FIRREA principles to certain transactions covered by the Uniform Act. One comment stated that a double standard relating to staff and fee appraisers would be established which would generate problems involving a variety of working relationships and lead to complications in condemnation actions. It was recommended that the certification requirement either should be applied to all appraisers working on Federal or federally assisted projects, or not applied at all. We have carefully considered these objections but are not persuaded that they overcome the obvious and compelling need to establish, within a limited scope, a reasonable consistency in the qualifications of appraisers to be employed for detailed appraisals where a Federal financial interest exists. We believe this amendment is neither more nor less than what is needed under the circumstances.

Two respondents commented the amendment would add nothing to an already efficient and economical system of safeguards for appraisal integrity. While we are certain that such systems of safeguards exist in a number of agencies, we do not, even for those agencies, consider this requirement redundant since its primary intent is to establish consistency among agencies in the development of detailed appraisals. One of the respondents seems to misinterpret the amendment to require the use of contract (fee) appraisers for all detailed appraisals. The amendment does not preclude the use of staff appraisers, certified or not, for such appraisals. This was pointed out in the NPRM.

One respondent noted that specialty appraisers need not in all instances be certified. This is correct. The requirement for certification is limited to appraisal assignments requiring the

preparation of a detailed appraisal pursuant to § 24.103(a).

One respondent commented that the amendment would preclude an agency from obtaining the services of a very qualified fee appraiser for a detailed appraisal assignment if that appraiser has elected not to become certified. This is generally correct. If, however, for a given assignment, such an appraiser, though not certified, is better qualified than other available and certified appraisers, the waiver provision of § 24.7 could be employed to obtain that appraiser's services.

Two comments suggested that State licensed appraisers also be permitted to make detailed appraisals. Since our concern is to establish a minimum qualification requirement commensurate with the difficulty of the appraisal assignment, we are not adopting this suggestion.

Three comments expressed concern that an adequate number of certified appraisers may not be available, particularly in rural areas. Since this rule is directed solely at the use of contract (fee) appraisers performing detailed appraisal assignments, an agency facing this problem may need to review its detailed appraisal requirements to determine if they are too restrictive, or consider expanded use of staff appraisers for such assignments. The option of using the waiver provision of § 24.7, on a limited and case-by-case basis, is also available.

One comment suggested that an agency using appraisers who are not certified in condemnation actions would be in jeopardy of having the testimony of such appraisers discredited by the condemnee. Presumably this would be most likely to arise in those instances where the agency is using a non-certified appraiser and the condemnee is using a State certified appraiser. There are, of course, other possible situations. While we agree with this observation, we do not consider it advisable to speculate on the treatment that will be afforded appraisers in future condemnations on the basis of their possessing, or not possessing, a license or certificate under State law. Neither the FIRREA, nor the Uniform Act and its implementing regulation, 49 CFR part 24, address the varied and complex evidentiary problems that may arise in eminent domain litigation.

One comment stated that requiring fee appraisers to be certified for all detailed appraisals is more restrictive than if the specific FIRREA dollar thresholds were used. The only dollar threshold the FIRREA sets is that, "a State certified appraiser shall be required for all federally related transactions having a

value of \$1,000,000 or more * * * (§ 1113(1)). Section 1113 also gives an agency the responsibility to determine if transactions are of sufficient financial or public policy importance that a State certified appraiser should be used. We believe that public acquisition of real property is of sufficient financial and public policy importance that appraisal problem complexity is a more meaningful standard than a given dollar threshold. Again, if warranted, agencies should review their criteria for detailed appraisals to determine if they are too restrictive.

One respondent suggested that a person certified in one State be permitted to perform detailed appraisal assignments in any State. We concur with this suggestion and this regulation would not prohibit it. However, if a State implements appraiser controls that go beyond the FIRREA's requirements the use of out-of-State appraisers on federally assisted State and local projects may be prohibited by State law and/or implementing regulations. Where this situation exists, State and local agencies required to comply with Uniform Act requirements may wish to encourage out-of-State appraisers to obtain a temporary certification, or become qualified through reciprocity provisions. Or the agencies may seek an exception from the provision(s) from the appropriate State authority.

One respondent noted there are two certified appraiser categories, residential and general, but the amendment refers only to certified appraisers. Two certified appraiser categories have been created in several States. In those States this amendment allows agencies the flexibility to develop procedures using either certified category depending upon the appraisal problem encountered. The discretion to make a determination of this nature rests with the agency.

Two respondents recommended the addition of definitions for the terms "detailed appraisal" used in 49 CFR 24.103(2) and "complex acquisition." For a variety of reasons, including differences in State laws, regulations, and practices and differences in Federal and State agency goals and mission, it would be virtually impossible to develop, and certainly inappropriate to promulgate, definitions of these terms that would be meaningful for all concerned agencies. These terms are left to the reasonable discretion of the acquiring agencies.

One respondent opined that the Appraisal Standards Board's Uniform Standards for Professional Appraisal Practice (USPAP) should apply to all appraisals under the Uniform Act,

including those that are non-detailed. The point, apparently, is that USPAP standards should apply to low value and simple (non-detailed) appraisal assignments. While this is beyond the purview of the amendment of section 103(d) it should be noted that the Appraisal Standards Board has determined the provisions of 49 CFR 24.103 and 24.104 are consistent with USPAP.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures.

The FHWA has analyzed the effect of this action and determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of Department of Transportation regulatory policies and procedures. The rulemaking would not affect the level of funding available in Federal or federally assisted programs covered by the Uniform Act, or otherwise have a significant economic impact, so that neither a preliminary regulatory impact analysis nor a preliminary regulatory evaluation is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires that for each rule with a "significant economic impact upon a substantial number of small entities" an analyses be prepared identifying any significant alternatives to the rule that would minimize the economic impacts on small entities. The rule requires that there be consistency in the qualifications of contract appraisers when detailed appraisals are required for Federal and federally assisted projects. Based on the information available, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Environmental Impacts

The FHWA has also analyzed this action for the purpose of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and has determined that this action would not have any effect on the human environment.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implication to warrant the preparation of a federalism assessment.

The current regulation requires that detailed appraisals must reflect nationally recognized appraisal standards and that agencies must establish appraiser qualifications consistent with the level of difficulty of the appraisal. The FIRREA established a new nationwide State-based system for appraiser qualifications that is applicable to various federally-related transactions. Applying the FIRREA to fee appraisers on projects covered by the Uniform Act reflects current regulatory requirements and is not considered to have significant federalism impacts.

Paperwork Reduction Act

This rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, since it does not require the collection or retention of any new data.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory

action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 24

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements, Transportation.

Issued on: July 20, 1992.

T.D. Larson,
Administrator.

In consideration of the foregoing, part 24 of title 49, Code of Federal Regulations, is amended as set forth below:

PART 24—[AMENDED]

1. The authority citation for part 24 is revised to read as follows:

Authority: 42 U.S.C. 4601 *et seq.*; 49 CFR 1.48(cc).

2. Section 24.103(d) is amended by designating the text after the heading "Qualifications of appraisers" as paragraph (d)(1) and by adding paragraph (d)(2) to read as follows:

§ 24.103 Criteria for appraisals.

(d) *Qualifications of appraisers.*
(1) * * *

(2) If the appraisal assignment requires the preparation of a detailed appraisal pursuant to § 24.103(a), and the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).
(12 U.S.C. 1331 *et seq.*)
* * *

[FR Doc. 92-17638 Filed 7-24-92; 8:45 am]
BILLING CODE 4910-22-M

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LIST OF PUBLIC LAWS

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S. 2780/P.L. 102-324

To amend the Food Security Act of 1985 to remove certain easement requirements under the conservation reserve program, and for other purposes. (July 22, 1992; 106 Stat. 447; 1 page) Price: \$1.00

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CFR CHECKLIST

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| 29 Parts: | | | | 8 | | 4.50 | ^a July 1, 1984 |
| 0-99 | (869-013-00105-2) | 18.00 | July 1, 1991 | 9 | | 13.00 | ^a July 1, 1984 |
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| 500-899 | (869-013-00107-9) | 27.00 | July 1, 1991 | 18, Vol. I, Parts 1-5 | | 13.00 | ^a July 1, 1984 |
| 900-1899 | (869-013-00108-7) | 12.00 | July 1, 1991 | 18, Vol. II, Parts 6-19 | | 13.00 | ^a July 1, 1984 |
| 1900-1910 (§§ 1901.1 to 1910.999) | (869-013-00109-5) | 24.00 | July 1, 1991 | 18, Vol. III, Parts 20-52 | | 13.00 | ^a July 1, 1984 |
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| 31 Parts: | | | | 400-429 | (869-013-00159-1) | 21.00 | Oct. 1, 1991 |
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| 1-39, Vol. I | | 15.00 | ^a July 1, 1984 | 1000-3999 | (869-013-00162-1) | 26.00 | Oct. 1, 1991 |
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| 1-189 | (869-013-00119-2) | 25.00 | July 1, 1991 | 45 Parts: | | | |
| 190-399 | (869-013-00120-6) | 29.00 | July 1, 1991 | 1-199 | (869-013-00165-6) | 18.00 | Oct. 1, 1991 |
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| 800-End | (869-013-00124-9) | 18.00 | July 1, 1991 | 46 Parts: | | | |
| 33 Parts: | | | | 1-40 | (869-013-00169-9) | 15.00 | Oct. 1, 1991 |
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² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴ No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

⁵ No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

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⁷ No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1991. The CFR volume issued July 1, 1989, should be retained.

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